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Parliamentary Register;

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PROCEEDINGS AND DEBATES

O F T H E

HOUSE OF LORDS;

CONTAINING AN ACCOUNT OF
The most interesting SPEECHES, MOTIONS,
PROTESTS, PETITIONS, &c.

DURING THE
SECOND SESSION of the FOURTEENTH PARLIAMENT

O F
G R E A T B R I T A I N :

WITH SUCH
PETITIONS to the KING, as relate to the Proceedings
of the HOUSE;

AND A LIST OF
The ACTS passed in this SESSION.

V O L. V.

L O N D O N :
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T H E
H I S T O R Y
O F T H E
PROCEEDINGS and DEBATES
Of the SECOND SESSION of the
H O U S E of L O R D S
O F T H E
Fourteenth Parliament of *Great-Britain.*

THE session was opened by his Majesty, on Thursday the 26th of October, 1775, with a speech from the throne; which speech having been already printed, in the debates and proceedings of the House of Commons of this session, it is unnecessary to repeat it.

Before the motion was made for an address, Lord *Camden* rose, and presented the following petition:

To the Right Honourable the Lords Spiritual and Temporal in Parliament assembled.

The humble Petition of the Lord Mayor, Aldermen, and Commons of the city of London, in Common Council assembled,
Sheweth,

That this court having taken into its most serious consideration the present distressed situation of our fellow subjects in America, are exceedingly alarmed for the consequences of those coercive measures, which are pursuing against them; measures that must, notwithstanding the great uncertainty of their success, eventually be productive of new and more burthensome taxes, the increase of an enormous national debt; and finally, we fear, the loss of the most valuable branch of our commerce, on which the existence of an infinite

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nite number of industrious manufacturers and mechanics entirely depends.

That his Majesty having been graciously pleased, in answer to a late humble and dutiful address and petition to the throne, praying a cessation of hostilities with America, for the purpose of obtaining time, and thereby giving an opportunity for a happy and lasting reconciliation, with his Majesty's American colonies, to declare, that he should abide by the sense of his Parliament, this court conceive it to be their indispensable duty, thus early in the session, in the most respectful manner, to apply to this right honourable House, that it will be pleased to adopt such measures for the healing of the present unhappy disputes between the mother country and the colonies, as may be speedy, permanent, and honourable.

The petition was read, and ordered to lie upon the table.

Lord Chancellor.

The Lord Chancellor condemned the conduct of the noble Lord who presented the petition; said it had always been a rule in that House, not to enter upon any business, till the speech from the throne had been taken into consideration; it was a compliment uniformly paid and expected; but since the noble and learned Lord had departed from that rule, he should beg leave to present a petition from his Majesty's colony of Nova Scotia. His Lordship then presented the petition, in his place. [*Another copy of the same petition having been presented to the House of Commons by the Speaker, it is printed in the account of the proceedings of that House, page 46 of this session.*] It was read, and ordered to lie upon the table.

Lord Viscount Townshend.

Lord Viscount Townshend moved, That an humble address be presented to his Majesty, to express, &c. His Lordship said, it was extremely proper, in the present exigency of affairs, to take foreigners into our pay, and Irish papists into our service. He said papists might be as good soldiers as any other; that it was only in this country any distinction was made; that France, however rigorous, bigoted or despotic she might be in other respects, made no difference between protestants and catholics; that the Hollanders acted in the same manner; that so men were good soldiers, it was very little matter what their creeds were. He touched slightly on the disposition of the several powers of Europe; particularly that of the house of Bourbon, and the United Provinces: the last, to shew we had no obstruction to fear in the execution of our designs respecting America; it being a strong presumptive proof that we had very little to fear from the other powers of Europe, when even a state that almost exists by trade

trade and the universality of its commerce, had renounced all prospect of advantage or emolument by trading with our colonies, having in the most solemn manner prohibited such an intercourse in the fullest operative and specific terms.

Lord Viscount *Dudley* seconded the motion. Having asserted the sovereign authority of the British legislature over every part of the British dominions, his Lordship contended, that the present rebellion in America, was fomented and supported by a desperate faction in this country; that none but men of the worst dispositions, and most pernicious designs, would encourage the claims of America; and that as they had been wrong almost in every thing else, he was glad to find they had been mistaken in their predictions relative to the distresses which the dispute with America would bring upon this nation. He had the pleasure of acquainting their Lordships, that he lived in the midst of a manufacturing country, in the neighbourhood of Birmingham, Wolverhampton, &c. and he could affirm, from the best and most authentic information he had been able to collect upon the spot, that none of the direful effects, so often echoed thro' that House, and which it had been said would flow from the measures pursued by administration and supported by Parliament, &c. had been yet, nor were likely to be felt.

The Marquis of *Rockingham*, after enumerating the conduct of the several administrations for some years past respecting America, condemned the speech, which he called the speech of the minister, in very pointed terms; and contended that the measures recommended from the throne were big with the most portentous and ruinous consequences. His Lordship moved an amendment. [*The same that was moved by Lord John Cavendish in the House of Commons; see page 7, Commons debates of this session.*]

The Earl of *Coventry* asserted the authority of the supreme legislature over the colonies, but condemned, in express terms, the madness and absurdity of expecting to reduce them by mere measures of coercion, so as to answer any one sober or rational purpose of sovereignty, commerce or finance. He told the noble Lords in office, that they had no alternative left, but either to relinquish all connection with the colonies, or to adopt conciliatory measures; the idea of conquering them was wild and extravagant, he said, even in the event of victory; because, if they should be vanquished, they would be worth nothing to the mother country; and would besides call for such a standing military force to keep them

them in subjection, as we could never be able to support. In short, the whole of his argument went to this; the hazard of failing in the attempt to reduce them; the little value they would be of when conquered; and above all, the inability of Great Britain to retain, for any considerable time, such a species of dominion; put in the opposite scale against the innumerable advantages we must immediately forego in such a contest, and the very solid substantial benefits we must continue to reap from a state of tranquility, reciprocal good temper, and mutual confidence.

Earl of
Rochford.

The Earl of *Rochford* said, he had every reason, as well from repeated assurances as from the real disposition of the courts of Madrid and Versailles; to be perfectly satisfied, that there was nothing to be dreaded from that quarter; there being at present a perfect good correspondence subsisting between those courts and Great Britain. His Lordship concluded with ridiculing the folly and absurdity of supposing that France and Spain would interfere in the disputes under consideration; remarking that it was by no means the prevailing policy of the House of Bourbon, to set so dangerous an example to their subjects in the new world, by assisting the British colonies to shake off the dominion of the mother country.

Duke of
Grafton.

The Duke of *Grafton* condemned the measures recommended in the speech, and the conduct of Administration during the last twelve months. He observed, that the amendment did not entirely meet his ideas, he therefore could not vote for it; but he should certainly give the address itself a negative, when the question came to be put on it. His general sentiments respecting America, were, he said, well known; he should not therefore take their Lordships time up in explaining them. It was true, he had supported administration, but it was upon a general idea, that means of conciliation might be derived and adopted; he expressed his ignorance of the true state of America, and asserted he had been *mistaken* and *deceived*; for that reason chiefly, he could not think of concurring any longer in measures of which he never really approved; but to which he lent his countenance, in expectation that the stronger government was, the more likely matters were to be amicably adjusted. He had a proposition which, with their Lordships leave, he would submit to the House. He knew it could not originate with their Lordships, as it must come through the other House, because it would affect the revenue. Perhaps, says his Grace, it will not gain your approbation entirely this night; but believe me,

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me, you will like it better to-morrow, and still better in three days hence. It will daily grow in your esteem. In a fortnight, I promise you, it will have more friends, until at length it will gain universal assent and approbation. The proposition is only this; to bring in a bill for repealing every act, I think there are thirteen, which has been passed in this country since the year 1763, relative to America. This, I will venture to assert, will answer every end; and nothing less will effect any effectual purpose, without scenes of ruin and destruction, which I cannot think on without the utmost grief and horror. But, my Lords, though I had entertained a contrary opinion to what I do, I could by no means consent to agree with this address in the form it is now presented. I confess I could not, at any time within my recollection, venture either in *conscience* or *judgment* to give it my support. The necessity of hiring foreign troops, for garrisoning our two valuable and important fortresses, is not accompanied with sufficient information to justify so extraordinary and unprecedented an act. It is indeed accompanied by none. Besides, this address takes in the whole of the measures to be adopted, without a single fact being stated, or a tittle of information given, to point out their rectitude or necessity. We do not know the extent of the expences we may be put to, the general outline of the operations intended, nor the various consequences we may bind ourselves to by such an engagement. In fine, my Lords, if I was not truly touched by the present very critical situation of this country, I had a sufficient apology for absenting myself, on account of a very indifferent state of health; if I were not convinced, that silence in my situation would be construed into acquiescence, if not direct approbation. But I trust your Lordships will credit me, and I am convinced that my brethern in office are satisfied, that nothing but the most full and perfect conviction of my being in the right, could prevail on me, under the circumstances before alluded to, to attend thus early in the sessions to give my vote; nor shall my indisposition prevent me from answering what I look upon as the strongest call of duty; for should it continue to encrease, I pledge myself to your Lordships and my country, that if necessity should require it, and my health not otherwise permit it, I mean to come down to this House in a *litter*, in order to express my *full and hearty disapprobation* of the measures now pursuing; and, as I understand from the noble Lords in office, meant to be pursued. I do protest to your Lordships, that if my brother or my dearest friend,

friend, was to be affected by the vote I mean to give this evening, I could not possibly resist the faithful discharge of my conscience and my duty. Was I to lose my fortune, and every other thing I esteem; was I to be reduced to beggary itself, the strong conviction and compulsion at once operating on my mind and conscience, would not permit me to take any other part on the present occasion, than that I now mean to adopt.

Earl of
Sandwich.

The Earl of *Sandwich* remarked, that the framers and supporters of the amendment, after, in the opening, stating the facts, "that the disorders in America had rather encreased than diminished," instead of assigning the causes that followed this assertion, should have assigned the only true cause, which was the open and avowed support and countenance given to the rebels, by men, who under a pretended regard for their country, encouraged, from the worst motives, an unnatural rebellion against the executive and legislative powers of the state, and the undoubted rights of the people of this country. In answer to some strictures made by the noble Duke who spoke last, he defended the conduct of the naval officer who commanded on the American station, and seemed to hint some degree of censure upon the operations on shore. He confessed, that things were much altered, and that it was necessary to considerably augment our navy; that he had already taken every precaution in his power; that the armament of last year had consisted of thirty armed vessels of different sizes, two of them two decked vessels; that twenty were actually sailed, or were ready to sail to reinforce them; and that it was the intention of administration to complete the number, by the time that operations were to commence, to seventy vessels, which would be such a force co-operating with the army, as would render it impossible for the Americans either to resist, keep together, or subsist; as they would have at once all the calamities of a war to contend with, without the means of carrying it on; being thus cut off from all supplies they might expect to derive from Europe, or elsewhere. His Lordship confessed, that administration had been *deceived* in some measure; yet he thought it necessary now to declare, that it was his own private opinion, that the stronger the navy was, the more effectual their operations would be. He saw the matter very evidently in that light; but it was generally *believed*, if a larger force had been demanded, it would have raised an opposition to the measures at large; and this was one very powerful motive for his not explain-

explaining his own ideas so fully as otherwise he was most certainly disposed to do. His Lordship observed, that it was fashionable to cry up the prowess and intrepidity of the Americans; but in his opinion, if they had betrayed any proofs of cowardice and want of spirit formerly, nothing had yet happened on their part, sufficient to wipe off the aspersions; for it had ever been a received opinion, that an army entrenched are at least equal to three times their number of assailants; whereas the superiority on the part of the provincials was confessed on all hands to be in the direct contrary proportion; and yet, the King's troops were victorious. He commented on the proposition recommended by the noble Duke, and contended, it was in fact giving up the whole contest, and at once relinquishing our rights of sovereignty; and every possible benefit we are entitled to claim in the way of trade and commerce; that though we should agree to repeal all the laws relative to America, passed since the year 1763, yet in all probability the noble proposer, as well as the proposition, would meet with the treatment and contempt that, last session, a noble Lord, now absent from his place [Lord Chatham] did, which was, to be condemned in pamphlets and newspapers, and his person reviled in the most reproachful terms in scurrilous publications and ballads, hawked about the streets of their several capitals by old women and boys. He pursued the idea of the noble mover of the address, relative to foreigners and Papists, in the instance of France and Sardinia, who constantly retained large bodies of Swiss in their armies, who professed the Protestant religion; and contended generally, that if the measure of reducing America was a right one, it was proper of course to enforce it; and he was astonished to hear the power of the King to call the aid of his Hanoverian subjects to his assistance doubted, or the propriety of employing foreigners, to effectuate measures previously determined to be necessary, condemned.

Lord *Lyttelton* resented what he deemed an implied censure on his noble relation [the Earl of Chatham] who, he observed, unfortunately for his country, was absent from his duty in Parliament; being confined to his bed by a severe fit of illness. He said, the noble Earl, who endeavoured to load that truly great man with ridicule, ought to recollect and well weigh a character which he was no more able to depreciate by an attack in his absence, than he could add to it, by any encomiums it was in his power to bestow. He said, that great man was the ornament of his country, and the delight and admiration of every man, of every party, who wished well

Lord *Lyttelton*.

well to it! Though a young man, he remembered when this country was pretty much in such a predicament as at present; and he remembered too, that that steady patriot and able politician rescued it from the brink of destruction; and he was now fully convinced, its salvation, nay indeed its existence, were only to be obtained and preserved by the same means: His Lordship turned to the question, and maintained the sovereignty of the legislature in its fullest extent; but condemned in the most marked and expressive language, the conduct of administration. He said, that they had totally failed in their promises and information, and were no longer to be trusted or supported with safety. He alluded to his conduct during last session, when he voted with the ministry, how strenuously he recommended vigorous measures, or none; and how frequently he pressed them on this head. On the whole, therefore, he said, though he could not vote for the amendment, because the Americans were not declared to be in rebellion, he totally disapproved of the address, and the measures recommended in it. He said matters were now entirely altered. Boston was turned into an hospital, where more died of famine and want of care, than by the sword. We probably had not a single foot of land in our possession on the continent of America. The expence and hazard of reducing it, the little dependence there was to be placed in men, who had been misled themselves, or purposely misled others, operated so strongly on his mind, that he could no longer lend his countenance and support to such measures, accompanied by such circumstances; and consequently must unite in opinion with the noble Duke, in wishing that all the acts respecting America, passed since the year 1763, might be repealed, as a ground for conciliation, a full restoration of the public tranquillity, and return of America to her wonted obedience, and subordinate dependence on the mother country.

The Bishop
of Peterborough.

The Bishop of *Peterborough* answered some reflections which dropt from Lord Sandwich on the obstructions thrown in the way of administration, by declaring, that he was so far from having had any disposition to clog and embarrass the wheels of government, that he had given his vote last year for the measures of the ministry, upon the ground of the information he had received from reading the American correspondence; his Lordship, however, reminded the House, that, notwithstanding the vote he then gave, he had expressly declared, that reconciliation last year * was the object he

**Vide*, Lords debates of last session. page 57.

ever had in view, and meant not to lose sight of. He hoped therefore, that the Lords would not impute it to a spirit of faction, if (as he thought the state of things now very different from what they appeared then,) he should be constrained to withhold his consent from the address. My reasons, he added, for so doing, I will simply, and as briefly as possible, lay before your Lordships.

It appeared to me, in the last sessions, to be the general opinion of all such as I thought best capable to form a judgment what were the most probable means to effect a lasting re-union with the colonies, that even a shew of perseverance to support the authority of the legislature would intimidate the factious and restore peace and tranquility. Experience has now convinced me that a mistaken judgment upon this point was formed by the friends of administration, both here and in America. The declaration of perseverance went forth, and though backed by 10,000 men, has not intimidated a single colony.

We were assured last year, that upon the appearance of a reinforcement which could protect them from the insults of the mob, a considerable party would declare themselves in favour of the mother country; that there is no reason now to flatter ourselves with such an expectation (if there ever was any) is too obvious to be insisted upon. It was said too, in the spring, that the Americans would not, some indeed were confidently persuaded they could not, fight; yet we now certainly know that they can and will fight, for they have fought. It is true, they were defeated, but considering the stand they made, and the intrepidity of the troops they had to contend with, they were not disgraced by their defeat.

We were made to believe, a year ago, that the restraints put upon the commerce and fisheries of the colonies would press so hard upon their interests, as to bring them to submission.

We have now learnt that their commerce is but a secondary consideration: if it may not be called liberty itself, that they are contending for, it is at least the opinion of liberty, which operates no less forcibly on the passions of mankind.

Having thus contrasted the past and present state of American affairs, he said, that he was persuaded many Lords besides himself had, on some or all of the grounds he mentioned, been induced to approve of the measures proposed in the last session, he owned they were measures of coercion and correction, which he then thought advisable, because he believed they tended to effect peace and re-union. But, he added, it seems to me unfortunately for both countries, that

we have lost sight of the end in the means. It is no longer a question whether reconciliation is best brought about by concession or force; but whether or no we shall engage in a ruinous and expensive war, till one or both countries is sacrificed to resentment, on a barren point of honour.

I call the subject of our dispute a barren point of honour, for I am persuaded, there is scarce a man in this country, who thinks now that America, if subdued, will be brought to submit to taxation. Be the right of the legislature what it may, such as I have conversed with, hold the exercise of it not only inexpedient but impracticable.

Admit then, the point of honour established by a series of victories, it must still remain a barren speculative principle of pre-eminence, and all the advantage which can possibly be expected from it, can never be adequate to the expence of blood and treasure that must necessarily be wasted in the fruitless acquisition.

The noble Viscount who has moved this address, has been pleased to lay a great stress upon the assurances given by the courts of France and Spain. I am free to admit that nothing is to be apprehended from either of our rival powers, while our domestic disputes continue. They must be bad politicians indeed, to hazard any thing for reducing our force, while they see us so eagerly doing their business at our own expence.

The other noble Viscount who has seconded this address, has acquainted your Lordships, that to his own personal knowledge, our great manufacturing towns feel no decline of trade from the interruption of the American commerce. They have, his Lordship says, as full employment, and as ample orders from their factors as ever. Be it so: what is it that the noble Lord can infer from this concession, unless it is that our manufactures can do as well without the American trade as with it? Why then, I would ask, are we sacrificing the flower of our army, and burthening posterity with an enormous debt; better surely will it be to cut off at once a limb that is of no use, than to hazard the mortification of the whole body, by endeavouring to preserve it.

His Lordship proceeded then to give his opinion upon the use that might be made of the petition from the congress, as a ground of conciliation.

I am free to own, said he, I consider the petition as a refined piece of political subtlety; yet I plainly perceive from it, that there is either a difference of sentiment among the leaders, or that the bulk of the people do not even now wish for a total separation,

separation, whatever may be the object of some among the leaders who direct their councils.

It is evident that the petition is expressed in terms which, considering the circumstances of the country, are more moderate and dutiful than could have been expected. Suppose then that this was calculated to gain the approbation of such, as wished still for peace and conciliation. It is plain, that some such there still are among them, and that their leaders thought it prudent to manage them, though they had address enough to clog the whole with a title and subscription which they meant should render it inadmissible. Are your Lordships to be so imposed upon; will you be for rejecting this petition altogether, or will you not find some means of admitting it, so as to defeat the purposes of those who in their hearts are enemies of peace? I beg leave to remind the House of a wise answer given lately by one of his Majesty's governors to a petition of a provincial congress. I cannot (says Sir James Wright) look upon your meeting as constitutional, but as your petition is expressed in terms of duty and loyalty, and the ends proposed are such as every good man must wish to promote, I shall consent.

To conclude, was there no other consideration than the great importance of the question, whereon not the commerce only, but in a great measure the very being of the British empire depends, it would justify delay, till all the light which can be collected is thrown upon the subject. The amendment proposed by the noble Marquis seems directed principally to this end, and for that reason I shall give my consent to it. Whatever vote your Lordships shall hereafter come to, weigh first the hazards of war, weigh the heavy expence of acquiring your object against its real value. I am too much pleased with the spirit of the noble Lord's [Lord Lyttleton] idea, who declares the British troops are invincible, to question it. Cast the sword of victory then into the scale of honour, It will still be found wanting.

The Earl of *Sandwich*, rising to explain, was called to order; but insisting on his right to be heard, said he had no intention to depreciate the character of the noble Earl, who he understood was prevented by illness from attending his duty in Parliament; that he never meant to ridicule him, and still much less so in his absence. Earl of
Sandwich.

The Duke of *Grafton* rose to explain, concerning something which had furnished Lord Sandwich, with an opportunity of supposing his Grace had passed some degree of censure on the naval operations carried on in America. Nothing, Duke of
Grafton.

he assured his Lordship and the House, could be further from his intentions; for he had a very high esteem for the gentlemen of the navy; and took a very peculiar pride in being immediately descended from one of the profession.

Earl of
Effingham.

The Earl of *Effingham*, after taking a short review of the conduct of administration, turned his attention to the measures proposed by them; and supposing that it should be agreed to carry them into execution, asked Lord Townshend, whether he thought 60,000 men would be sufficient to recover America, and entirely subdue it.

Ld. Viscount
Townshend.

Lord Viscount *Townshend* replied, it was a question he could by no means undertake to answer; that he was acquainted only with that part in which he had acted himself; that there was a very able man [Sir Jeffery Amherst] who, it was reported, would shortly be called up to a seat in that House: This gentleman he said had traversed the principal communications of the northern parts of that continent; and he believed had been consulted. He assured their Lordships, that for his own part, he had never been applied to in council or elsewhere; but if the question had been put generally to him, whether such a force was sufficient for the purpose, he should very fairly reply, from his general knowledge, and from all the lights he had been able to obtain from history, that he never knew an instance, where 60,000 men were in possession of the posts, proper to be occupied, in which they had failed. [Several questions, of a similar nature, were put to him; but his Lordship seemed willing to avoid giving any specific answer.]

Earl of
Dartmouth.

The Earl of *Dartmouth* said, he was astonished how any noble Lord could condemn administration, or withdraw his support from them, without at least giving them a fair trial; that it was never supposed, if America united, to reduce them would be the work of one summer; that the measures of last session were calculated and directed to the safety and protection of the province of Massachusetts-Bay entirely; that, as such, they had been wisely planned, and must have been successful, if a variety of events, impossible to be foreseen, or provided against, had not united to defeat them; such, in particular, was the change of sentiments in the people of New-York, and the unexpected unanimity and unforeseen measures adopted by the continental congress.

Lord Gros-
venor.

Lord Grosvenor said, he was not used to speaking. Politics were not in his way; but he thought the King's speech was a good speech, and as such ought to be answered in the terms moved by the noble Lord.

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The Duke of *Manchester*; after examining the true purport of the speech, which he treated as the speech of the minister, submitted his reasons for disapproving of the address, and for agreeing with the amendment. His grace observed, that it had been the general language of the ministry, and many other noble Lords last session, to impute all opposition to their measures to factious and ambitious motives. He was sorry to hear the same language renewed this day; first, by the noble Viscount who seconded the address, and afterwards by the noble Earl at the head of the admiralty. His Grace solemnly protested, as long as he had the honour of a seat in that House, he would never endure it. If the noble Lords who made the accusations had grounds to justify what they said, he called on them to bring them forward, or confess they had no authority for what they said or insinuated. If they are silent, then, says his Grace, I shall suppose they have none. The House must suppose so, and as such will not permit them to interrupt or disturb that decorum and freedom of debate for which your Lordships have at all times been so justly distinguished. [Mention was made, by some of the Lords in administration, of the several addresses, lately presented to his Majesty; that they contained the fullest approbation of the present measures, and must be presumed were the voice and sense of the nation.]

Lord *Craven* said, the manner and the means employed to obtain these addresses were well known. He should mention only that which was obtained in his own neighbourhood, which, he said, was shamefully smuggled; no notice being previously given the citizens of Coventry. It was drawn up he said, by the mere agents and creatures of administration; nine tenths who signed it never heard a syllable of its contents; and yet, with all the arts used to deceive and mislead, no more than 117, most of them ignorant of what they were doing, could be prevailed upon to sign it; while the address he interested himself in, and which carried truth to the foot of the throne, attended with all the previous forms which should ever accompany declarations of this nature, where the sentiments of the people ought to be faithfully collected and expressed, was signed by 406 names; and he could assure their Lordships, that in this number there was not one bought voice nor one pauper. From this instance, which came immediately within his own knowledge, he was led strongly to suspect, that most of the addresses now alluded to by the noble Lords were obtained in a similar manner; and hoped there-
fore

fore their Lordships would build nothing on so weak and rotten, though specious a foundation.

Duke of
Richmond.

The Duke of *Richmond* reminded administration of the very predictions which they now owned were the cause of their miscarriage. He told them that he, and many other Lords on the same side, had repeatedly pressed them on their real or pretended want of information; that if they were in earnest, their armaments, both by land and sea, were too weak; and if they were not in earnest, it was at once sacrificing the blood, treasure, commerce, and honour of this nation, to a most criminal lust of place and emolument, supposing that bloody measures were the tenure by which they held their offices. His Grace observed, that the public papers had held out threats against some of the members of both Houses, in order to stifle the freedom of debate; that he understood he was one of the persons singled out and meant to be honoured on this occasion; that he now called on his threateners and accusers, and, striking his hand on his heart, said, If any such be present, I will not pretend to say there are, I defy them; I scorn their menaces, and invite them to make good their charges. He did not suppose, he said, that any noble Lords in administration would encourage or employ such base, futile or scandalous means to intimidate the members in either House of Parliament from doing their duty, though they were certain that such a scheme would have the desired effect. His grace next turned his attention to what a noble Earl, early in the debate, had said, respecting the cowardice of the Americans. He begged leave to remind his Lordship, that he did not speak conditionally; there was no *if* at the time the charge was made, it was a positive one, and could not now be explained away by conditions introduced for the first time; yet however positive the noble Lord might have been then, or guarded he might be now, he could inform his Lordship that the New-England people were brave; that they had proved it; that the general who commanded at Bunker's-Hill had confessed it; that another [General Burgoyne] no less celebrated for his talents than zeal for the cause, had confirmed it; that an officer, a particular friend of his, on the spot, had united in the same opinion. He combated the facts and conclusions of the noble Earl, relative to the particulars of that day. He denied the superiority of numbers, and observed that he never recollected an instance where lines had been forced and no prisoners taken but such as were wounded. The noble Viscount, he said, who moved the address, when questioned about the practicability of reducing and holding

America

America in subjection, instanced the conquest of Corsica. The difference of extent of the two countries, the vicinity of the island to France and the number of persons in arms to resist, which were no more than 6000; added to the immense superiority of the French in point of numbers, was sufficient to shew how little the two cases were alike: and as to his Lordship's general answer, that 60,000 men in possession of all the posts of a country would in all probability succeed, he must have supposed the conquest as a matter previously effected; because, he could see very little or no difference between the actual conquest of a country, and occupying all the posts which command the necessary communication by land and sea: that not being the case here, he must therefore look on his Lordship's answer as deciding nothing. He condemned the speech and address with severity. His grace concluded with calling upon the law Lords to rise and give their opinions, whether his Majesty was properly advised in taking Hanoverians into British pay, and bringing them into the dominions of Great-Britain, without the previous consent of Parliament.

The Earl Gower confessed that administration had been *deceived and misled*; and that, consequently, the measures taken were by no means proportioned to the nature and extent of the service; that the accounts received from the southern provinces led to this mistake; and that several other events had happened, which it was impossible to foresee or prevent. In particular, the province of New-York had been overawed and compelled, by a party of insurgents from Connecticut, into measures they would never have otherwise adopted; that however still, if the friends of government were emancipated by the aid of a force from this country, he had strong expectations, the colonies, by that means, might be brought to a sense of their duty, without the mother country being obliged to have recourse to those scenes of misery and desolation, described by the noble Lords, on the other side. His Lordship lamented, that those who had hitherto approved of the propriety of the measures respecting America, should so suddenly abandon them; or that any foundation should be laid, for suspecting they wished to defeat every thing they had on a former occasion expressed the strongest desire to support. On the whole, he was convinced, he said, that the proposition of the noble Duke would never answer the end proposed; and that the question was now simply reduced to the alternative of coercive measures, qualified in the manner he had pointed out, or forever relinquishing any power, dominion, or advantage from our colonies in North-America.

Lord

Ld. Ferrers. Lord *Ferrers*, of Chartley, apologized for his youth, and said, that whatever desire he might have to follow the opinion of his very near and noble relation, yet, as a Lord of Parliament, in the execution of a trust, and in the discharge of a duty, he felt himself called to a conscientious discharge of both. Such being his motives, he found himself under a necessity of supporting the amendment, and disagreeing with the proposed address.

Earl of Shelburne. The Earl of *Shelburne*. I may, from this moment, congratulate the public, that the ministry have pronounced the funeral oration of their addresses. From the language of those addresses, and from the various threats which were industriously circulated, I came to town with some apprehensions, not for myself, but lest the zeal of some of my friends for the violated rights of their suffering fellow subjects, should have led them into unwary expressions which might have enabled some dark designing lawyer to stab the public freedom through the indiscretion of an individual. I do not blame the addressers who have thus unjustly aspersed the characters of those whose aim is, by steady, just and temperate counsels, to save this deluded country from distraction. They were deceived; they were deceived by these very ministers, who being now called upon, explicitly avow, without any appearance of shame or remorse, that they have no evidence to support their accusation.

It is with equal astonishment and concern, my Lords, that I perceive not the least mention made in the speech which has been this day delivered to us, of a paper, the most important of any that could possibly come under the consideration of this House. I mean the last petition from the general congress in America. How comes it, that the colonies are charged with planning independency in the face of their explicit declaration to the contrary, contained in that petition? Who is it, that presumes to put an assertion, (what shall I call it, my Lords) contrary to fact, contrary to evidence, notorious to the whole world, in that mouth, from which truth alone, if unprompted, would issue? It is their intention, by thus perpetually sounding independence in the ears of the Americans, to lead them to it, or by treating them, upon suspicion, with every possible violence, to compel them into that, which must be our ruin. For let visionary writers say what they will, it is a plain and incontestible fact, that the commerce of America is the vital stream of this great empire. A noble and reverend Lord has insinuated, that the petition seems to him to be conceived in terms of great art and ambiguity.

biguity. I have examined it with great care, but this morning I read it repeatedly, and to my apprehension, except a certain degree of address necessary to meet the prejudices which have been wickedly and industriously excited here, there cannot be a fairer opportunity offered of extricating this country from the ruinous situation in which the folly of administration has involved us. It furnishes the fairest foundation for an honourable and advantageous accommodation. I have been long and intimately known to some gentlemen of that country, one of whom now takes a considerable share in their proceedings; and I have ever found them and their correspondents constant and earnest in the wish for conciliation, upon the terms of antient connection.

My Lords, you have heard two of his Majesty's ministers acknowledge, they were deceived in their information, and have erred in their measures respecting America. There wants only a similar acknowledgement from a certain law Lord, who was forward to pledge himself last year for the success of their plans. A little blood, indeed, he owned they might cost; but with that, their efficacy was inevitable. The noble Lord's political sagacity has for once forsaken him. A great deal of blood has been unhappily shed, to no purpose, but to sever us more, if not put us asunder for ever.

But is it possible that your Lordships should not have marked, and marked with indignation, the levity, and even ridicule, with which the noble Lord, at the head of the admiralty, has treated this most solemn subject. No man who did not feel himself secure in the promise of impunity from some quarter, would proclaim his mistakes in triumph, sport with the calamities of his country. It is astonishing that any one should have dared to promise impunity to such fatal errors, and a conduct so criminal; it is your Lordships business to look to this. Should such men not only be at large unaccused, but highly trusted, adding fresh insults, misleading by fresh misinformation, and manifesting a total contempt of the public, both here and in America? The noble Lord laughs at all propositions of conciliation; repeats his imputation of cowardice against the Americans; says the idea of rights is to be driven out of their heads by blows; and ridicules the objections to employing foreigners and Papists. Is this a language, my Lords, becoming so great an officer of state? Is it decent thus to stigmatize so great a part of the empire with so base a calumny? It is impossible that noble Lord can have less intolercancy in his disposition than I have. But it does not therefore follow, that I should think it a measure of no

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moment, or of inconsiderable danger, to arm the hands of those who are strangers to toleration, and who pant for the extirpation of the Protestant religion. By what authority is it, that the crown has put the strong fortresses of this empire into the possession of foreign troops? I do not enquire whether it is with or against the letter of any particular law. I see it fundamentally infringing the first principles of our government; and do not hesitate to pronounce it high treason against the constitution. I foretel it is a measure which the indignation of this country will pursue, till it is utterly condemned. For, my Lords, if there were a settled plan to subdue the liberties of this country, what surer means could be adopted, than those of arming Roman Catholics and introducing foreign troops? Before you venture to make Roman Catholics soldiers; let them be made citizens. They will otherwise willingly employ the arms in their hands, to destroy those privileges of which they are not suffered to partake. If Hanover assists us, we must defend her when invaded. This involves us in continental connections and wars, which have already almost overwhelmed us with debt. In every view then, these measures are impolitic, unconstitutional, and dangerous.

Much has been said, my Lords, about not distrusting the present prince upon the throne; though we may be jealous of trusting such powers with those who may succeed him. It is not now a time for compliments. I do not distrust the King that is now upon the throne. I have more veneration for the character of King William than for that of any prince that ever swayed a scepter. The greatness of his talents, the virtues and the heroism of his heart, render him, in my estimation, the first of men. Yet had I been in that Parliament which refused him his Dutch guards, I should have been the foremost in so wise and constitutional a measure. My vote, my Lords, shall never be given for trusting the dangerous power of the sword in foreign hands. And however I may trust English swords will never be employed against English liberties; yet, I hold it my duty, as a guardian of the constitution, to look ever with a jealous eye on the augmentation even of an English army.

My Lords, the ministers lament, that it is their task, in this American business, to support the measure of another administration. This is some acknowledgment at least, that the measure was wrong. Why then did they support it. What secret influence has compelled them to heap errors on errors, grievance upon grievance, till they have shaken the constitution

constitution to its foundation, and brought the whole empire into danger and confusion. The Americans judge from facts. They have seen an uniform lurking spirit of despotism pervade every administration. It has prevailed over the wisest and most constitutional counsels; it has precipitated us into the most pernicious of all wars; a war with our brothers, our friends, and our fellow subjects. It was this lurking spirit of despotism, that produced the stamp act in 1765; that fettered the repeal of that act in 1766; that revived the principles of it in 1767; that has accumulated oppression upon oppression since, till at length it has openly established, by the Quebec Bill, popery and arbitrary power over half America.

It is the constant endeavour, my Lords, of those who lend themselves as the instruments of all the measures prompted by that pernicious spirit, for the emoluments it yields, to throw upon us the imputation of being prompted to opposition, solely by a desire of the same emoluments. But, my Lords, whatever may be the object in ordinary times, the present are big with dangers that absorb every other consideration. The inevitable consequence of persevering in these measures, must be such a depreciation of our estates, that opulence will be reduced to competence, and that to indigence. In contemplation of this adversity, I feel it a happiness that I have been bred a soldier; accustomed to the moderation of that life, my fall from opulence will be easy; such may it be with the rest of your Lordships. But as you would avoid this, and still greater calamities, let me beseech you to temper and restrain with your wisdom, the violence of this fatal address.

The question was put upon the amendment. It passed in the negative. Contents 29; non-contents 69. The question was next put upon the motion for an address. It passed in the affirmative. Contents 66, and proxies 10, in all 76. Non-contents 33, no proxies.

A list of the minority, in the last division.

The Duke of Richmond	Earl of	Coventry
Grafton		Jersey
Devonshire		Cholmondeley
Portland		Tankerville
Manchester		Effingham
Marquis of Rockingham		Fitzwilliam
Earl of Stamford		Radnor
Thanet	Viscount	Torrington
Abingdon	Lord	Craven
Scarborough		Sondes
	D 2	Boyle

Lord	Boyle	Lord	Lyttelton
	Monson		Wycombe
	King		Beaulieu
	Chedworth		Camden
	Archer	Bishop of St. Asaph	
	Romney		Peterborough.
	Ponsonby		

Dissentient,

1st, Because we cannot, as Englishmen, as christians, or as men of common humanity, consent to the prosecution of a cruel civil war, so little supported by justice, and so very fatal in its necessary consequences, as that which is now waging against our brethern and fellow subjects in America. We have beheld with sorrow and indignation, session after session, and notwithstanding repeated warnings of the danger, attempts made to deprive some millions of British subjects of their trade, their laws, their constitution, their mutual intercourse, and of the very food which God has given them for their subsistence. We have beheld endeavours used to enforce these impolitic severities at the point of the bayonet. We have, on the other hand, beheld so large a part of the empire, united in one common cause, really sacrificing with chearfulness their lives and fortunes, and preferring all the horrors of a war raging in the very heart of their country, to ignominious ease. We have beheld this part of his Majesty's subjects, thus irritated by resistance, and so successful in it, still making professions, in which we think it neither wise nor decent to affect a disbelief of the utmost loyalty to his Majesty; and unwearied with continued repulses, repeatedly petitioning for conciliation, upon such terms only as shall be consistent with the dignity and welfare of the mother country. When we consider these things, we cannot look upon our fellow-subjects in America in any other light than that of freemen driven to resistance by acts of oppression and violence.

2^{dly}, Because this unnatural war, thus commenced in oppression, and in the most erroneous policy, must, if persevered in, be finally ruinous in its effects. The commerce of Great Britain with America was great and encreasing, the profits immense, the advantages, as a nursery of seamen, and as an inexhaustible magazine of naval stores, infinite; and the continuance of that commerce, particularly in times of war, when most wanted to support our fleets and revenues, not precarious, as all foreign trade must be, but depending solely on ourselves. These valuable resources, which enabled us to face the united efforts of the House of Bourbon, are actually

ally lost to Great Britain, and irretrievably lost, unless redeemed by immediate and effectual pacification.

3dly, Because Great Britain, deprived of so valuable a part of its resources, and not animated, either with motives of self-defence, or with those prospects of advantage and glory, which have hitherto supported this nation in all its foreign wars, may possibly find itself unable to supply the means of carrying on a civil war, at such a vast distance, in a country so peculiarly circumstanced, and under the complicated difficulties which necessarily attend it. Still less should we be able to preserve, by mere force, that vast continent, and that growing multitude of resolute freemen who inhabit it; even if that or any country, was worth governing against the inclination of all its inhabitants. But we fear, that while we are making these fruitless efforts, refusing to give credit to the declarations of our fellow subjects, and blindly confiding in the insidious professions of the natural enemies of this country, we are preparing an easy prey for those who prudently sit quiet, beholding British forces, which, if united, might be in a condition, from their valour, numbers, and discipline, to carry terror into the very heart of their kingdoms, destroying each other. Every event, which ever way it turns, is a victory to them. Our very hospitals furnish them with daily triumphs; the greater, as they are certain, without any risk to them of men or money.

4thly, Because we conceive the calling in foreign forces to decide domestic quarrels, to be a measure both disgraceful and dangerous; and that the advice which ministers have dared to give to his Majesty, which they have avowed and carried into execution, of sending to the garrisons of Gibraltar and Port Mahon, the dominions of the crown of Great Britain, a part of his Electoral troops, without any previous consent, recommendation or authority of Parliament, is unconstitutional. That Hanoverian troops should, at the mere pleasure of the ministers, be considered as a part of the British military establishment, and take a rotation of garrison duties, through these dominions, is, in practice and precedent, of the highest danger to the safety and liberties of this kingdom, and tends wholly to invalidate the wise and salutary declaration of the grand fundamental law of our glorious deliverer, King William, which has bound together the rights of the subject and the succession of the crown.

5thly, Because the ministers, who are to be entrusted with the management of this war, have proved themselves

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unequal to the task, and in every degree unworthy of public trust. Parliament has given them every assistance they asked; no unforeseen accidents have stood in their way; no storms have disabled or delayed their operations; no foreign power hath, as yet, interfered; but notwithstanding these advantages, by their ignorance, negligence, and want of conduct, our arms have been disgraced; upwards of ten thousand of the flower of our army, with an immense artillery, under four generals of reputation, and backed with a great naval force, have been miserably blockaded in one sea-port town, and after repeated and obstinate battles, in which such numbers of our bravest men have fallen, the British forces have not been able to penetrate one mile into the country which they were sent to subdue; important fortresses are seized, the governors are driven from their provinces, and it is doubtful whether, at this moment, we are in possession of a single town in all North America. Whether we consider its extent or its commerce, England has lost half its empire in one campaign. Nor can we impute the misconduct of ministers to mere inability, nor to their ignorance of the state of America, upon which they attempt to justify themselves; for while some members of administration confess they were deceived, as to the strength and condition of the provinces, we have from others received official information, that the insufficiency of the navy was concealed from Parliament, and part of administration, from a fear of not receiving support from its members: we cannot therefore consent to an address, which may deceive his Majesty, and the public, into a belief of the confidence of this House in the present ministers, who have deceived parliament, disgraced the nation, lost the colonies, and involved us in a civil war against our clearest interests; and upon the most unjustifiable grounds, wantonly spilling the blood of thousands of our fellow subjects.

Torrington	Manchester
Fitzwilliam	Devonshire
Archer	Chedworth
Thanet	Boyle
Cholmondeley	Craven
King	Scarborough
Portland	Effingham
Stamford	Rockingham
Ponsonby	Richmond.
Abingdon	

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October 27.

Address reported. No debate. The King having appointed this day to receive the address, it was presented.

The humble Address of the Right Honourable the Lords Spiritual and Temporal, in Parliament assembled.

Most Gracious Sovereign,

We your Majesty's most dutiful and loyal subjects, the Lords Spiritual and Temporal, in Parliament assembled, beg leave to return your Majesty our humble thanks, for your your most gracious speech from the throne.

With the utmost abhorrence and indignation, we see the real design of those desperate men, who, by the grossest misrepresentations, have deluded and precipitated our unhappy fellow subjects in America into measures no less subversive of their own happiness and true interests, than dangerous to the prosperity and safety of Great Britain. The powers they have assumed, and the arbitrary and oppressive acts which they have done, leave no doubt of their traitorous purpose to induce the colonies to shake off the controul of the supreme legislature, and to bury in an ungrateful oblivion the remembrance of the great industry with which they have been planted, the fostering care with which they have been nursed, the many advantages which they have enjoyed, and the expence of blood and treasure with which they have been protected by this nation.

We cannot avoid expressing our concern, that the great tenderness with which your Majesty has proceeded, and the conciliatory disposition which appeared in the last session of parliament, instead of having the desired effect of undeceiving the misled, and establishing a confidence in the parent state, have been turned to the advantage, and made instrumental to the purposes of this dangerous attempt; and whilst we acknowledge this to be the consequence of the difference of intention which prevail here and in America, we are penetrated with a just sense of the motives which have regulated your Majesty's endeavours to prevent, if it had been possible, the effusion of the blood of our fellow subjects, and the calamities which are inseparable from a state of war; but since the rebellion is now become more general, and manifests the purpose of establishing and maintaining an independent empire, we cannot but applaud your Majesty's resolution to vindicate the rights, the interests, and the honour of this kingdom, by a speedy and most decisive exertion; and for this purpose, we think it our indispensable duty to declare that we will

will support your Majesty with our lives and fortunes ; and being fully persuaded, that in the present state of these disorders, the most active will, in its effects, be the most merciful mode of proceeding, we hear with pleasure, that your Majesty has encreased your naval establishment, and also greatly augmented your land forces. We are sensible of your Majesty's kind consideration in having done it in such a manner as may be the least burthensome to your kingdoms ; and your Majesty may be assured, that we shall chearfully concur in whatever may be necessary to enable your Majesty to profit of the friendly disposition of foreign powers.

We are deeply impressed by the gracious motives which induced your Majesty to send a part of your Electoral troops to the garrisons of Gibraltar and Port Mahon, by which assistance this country will be enabled to employ a larger number of its own established forces in the maintenance of its authority ; and we return your Majesty our sincerest thanks for having so providently pointed out to us a further resource in that national body of men, so constitutional in their nature, and so zealous in their duty, the militia of this kingdom.

We cannot sufficiently admire your Majesty's benevolent declaration, that when the wished-for period arrives, that the unhappy and deluded multitude, against whom this force will be directed, shall become sensible of their error, your Majesty will receive the misdeed with tenderness and mercy ; and we are fully sensible of the wise and compassionate sentiments which have determined your Majesty to delegate authority to certain persons upon the spot, to grant general or particular pardons and indemnities, in such manner, and to such persons, as they shall think fit, and to receive the submission of any province or colony which shall be disposed to return to its allegiance ; and we will most readily concur in granting to the persons so commissioned such farther powers as may best tend to promote and effectuate your Majesty's salutary measures.

Permit us, Sir, to offer our grateful acknowledgments to your Majesty for the full and explicit communication which your Majesty has been pleased to make to us, and at the same time to express the just sense we entertain of the numerous blessings we enjoy, flowing from the source of never-ceasing attention with which your Majesty is occupied for the safety and happiness of all your people : and we beg leave to assure your Majesty, that we participate the same desire which animates your royal breast, and feel no other wish than to re-establish

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establish order and tranquillity through the several parts of your dominions, upon the basis of a close connection with, and constitutional dependance upon, Great Britain.

His Majesty's Answer.

My Lords,

I receive with the most sensible satisfaction this address, so fully expressive of your duty and loyalty to me. Nothing can be more acceptable than the assurances you give of your utmost support to enable me to re-establish order and tranquillity throughout all my dominions, and I shall most heartily concur with any measures that may tend to so salutary a purpose.

Adjourned to October 30.

October 30.

Private business. Adjourned to November 1.

November 1.

The Duke of *Manchester*. I beg leave to call your attention this day to a subject of as great importance to the liberty of this country, as America was to its wealth and power, before the violence of the times had wrested that treasure from the British crown, and spurned the jewel, because the setting appeared uncouth. I do not mean, my Lords, to dwell long on the unfortunate story; the page of future history will tell how Britain planted, nourished, and for two centuries preserved a second British empire; how strengthened by her sons, she rose to such a pitch of power, that this little island proved too mighty for the greatest efforts of the greatest nations. Within the space of twenty years, the world beheld her arms triumphant in every quarter of the globe, her fleets displayed victorious banners, her sails were spread, and conquest graced the canvases. Historic truth must likewise relate, within the same little space of time, how Britain fell to half her greatness; how strangely lost, by misjudging ministers, by rash-advised councils, our gracious sovereign, George the Third, saw more than half his empire crumble beneath his sceptre; America, late the strength, now the foe to Britain, dismembered, torn, I fear for ever lost, to England, whence she sprung. With this calamity heavy on us, our duty, interest, and love to that country which still remains, calls on us to be strictly watchful of its liberty. The late speech from the throne has given a just alarm, has made a wound upon the constitution, which if not quickly healed, may spread a dangerous venom. The sentiments it breathes, are full of higher claims of prerogative, than any speech that I can remember since the Revolution. It appears to contain

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slights of this council, neglect of parliament, indifference of their approbation. The part I wish to call your Lordship's attention to, is that wherein his Majesty informs the House, "he has taken possession of the garrisons of Gibraltar and Port Mahon with his Hanoverian forces." Far be it from me to impute the sentiments of this speech to the respectable mouth that was made to utter it. I am confident his Majesty has too high notions of what is right, too great a love for justice, to wish to invade knowingly the real privileges of this nation. I may go further, my Lords, and even acquit the ministers of any wicked, premeditated design to infringe the subjects liberty. I do not think such evil of them; but I cannot so easily acquit them of ignorance of our laws, or indifference or inattention to them. My Lords, I take it to be an undoubted truth, an axiom in this government, that the King can maintain no standing forces, other than what are approved by Parliament. But that I may not appear to build on my own reason only, give me leave, though I fear it may seem too tedious, for the subject is very dry, to quote some acts of parliament in support of what I have advanced. I must begin by that great declaration of our liberties, the Bill of Rights. This act, my Lords, contains the claim of various indubitable rights from ancient usage, nor asks as favours any part. It is a capitulation with our Kings. The act declares the raising and keeping a standing army within the kingdom, without consent of parliament, is against law. The next I shall quote is the Mutiny Bill, which sets out in the preamble, in the words of the Bill of Rights, but proceeds, "that it is necessary for the safety of the kingdom, the defence of the possessions of the crown, and the preservation of the balance of Europe, that a certain number of forces should be kept up." It then limits what the number should be. I am well aware, it may be said, the garrisons of Gibraltar and Port Mahon are not in that number; whence or for what reason that irregularity arose, I am ignorant; but thus far it is cured, that they are annually provided for as to pay and maintenance by parliament, and therefore must be supposed approved. My Lords, in the course of the late war, it was thought useful and necessary to raise a regiment of Americans, of 4000 men, in which some foreign officers were to serve; but it was not by the King's prerogative, but by act of parliament. At that time that great man, Lord Chatham, was minister. In this act, though passed amidst all the turbulency of a war, *flagrante bello*, the greatest precautions were taken to guard the people's rights; the number of foreign

reign officers were limited to fifty, the soldiers were to be naturalized subjects, protestants, to take the oath 1 Geo. I. and the Colonel was to be a natural-born subject.

I will now bring your Lordship down to an act of later date; of so fresh a time, that there are few in this House who were not in that Parliament that passed it: I mean the 8 George III. to increase the Irish army. This act recites, in the preamble, the act of 10 William, for disbanding the Irish forces, and then provides, that as it may be necessary to keep up, for the defence of Ireland, 12,000 men, in order to give some assistance to the foreign garrisons, the army should be increased to 15,235, all natural born subjects. We see here the King calling for assistance of the British parliament, in order to increase the army in Ireland. He does not, even at the head of the parliament of that kingdom, think his authority sufficient, without sanction of the parliament of Great Britain, to make the least addition to his forces. I must likewise take notice, my Lords, that it will be matter of much doubt, whether Hanoverian forces, employed at Gibraltar or Minorca, will be under any law of war. The mutiny act extends but to troops therein specified, or voted by Parliament. What law will they then be under? They cannot carry Hanoverian laws with them. The laws of England alone can govern; as British subjects, they will be under protection of British laws. My Lords, the King's prerogative I conceive to be no greater in one part of his dominions than another; the subject is equally protected by the laws, whether shivering in the highlands of the north, or scorching upon Gibraltar's rock. The late determined case of Fabrigas and Moistyn, has cleared the subjects rights. I will not be further tedious, but from every instance I have had the honour of submitting to you, and from the constant practice, must infer, that the King has no right to maintain, in any part of the dominions of the British crown, any troops, other than are consented to by Parliament, both as to number and to nation. I will therefore conclude with offering to your Lordships the following motion:

"That bringing into any part of the dominions of Great Britain, the electoral troops of his Majesty, or any other foreign troops, without the previous consent of parliament, is dangerous and unconstitutional." I must observe, that by unconstitutional, I mean is against law.

The Earl of *Rockford* confessed, that he was one of his Majesty's ministers who advised the measure, against which the vote of censure was now moved; that he was fully satisfied

fied it was perfectly justifiable, and was ready to abide the consequences: that however far the professions of any noble Lord in the House might go, he would yield to none in a warm and steady attachment to the constitution, to the very bill now so justly extolled, the bill of rights, that great foundation of our liberties; but saying this, he could not perceive that in the most remote degree, that law could be construed to apply or reach the measure now so peremptorily condemned by the noble Duke who made the motion. For his part, he was unable to see how it offended against the law, either in letter or spirit. The clause plainly importing two conditions; bringing troops "within the kingdom," and "in time of peace;" whereas, it was evident to the clearest demonstration, that the troops in question were not within the kingdom; nor would any Lord in the House venture to affirm, that we were now debating in a time of peace and tranquility. Those, he said, were his general sentiments; and were the motives which induced him to concur in the measure; nor had he heard a syllable urged against the propriety of it, since it became a matter of public discussion, sufficient to alter the opinion he at first conceived. But having learned that a noble Lord in the other House [Lord North] who was governed by the same reasons, finding that they did not strike several gentlemen in the same light, was now probably moving a bill of indemnity, for the purpose of dispelling all apprehensions; and as that would of course meet the ideas of the noble Lords on the other side, he must be under the necessity of moving the previous question. He knew, he said, how unfavourable to the full debate and discussion of questions of importance, this mode of proceeding was deemed; yet, he believed, when the motives he now alledged were attended to with candour, he would appear fully justified in the opinion of every part of the House. His Lordship resorted to a variety of other arguments in defence of the measure, particularly on the ground of expediency, and the urgent necessity there was for adopting it, in order that the troops which the Hanoverians were intended to replace might return to this kingdom, so as to forward the necessary embarkations for America early in the spring. He observed, that the fears suggested by the noble Duke were ill founded; for still there would be a considerable force, composed of British troops, remain in the garrisons; in the proportion at least of 1400 to 1900 in one fortress, and 600 to 900 in the other. In short, his Lordship defended the measure, on its being legal, constitutional, and expedient.

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The Earl *Talbot* spoke a considerable time against the Earl *Talbot*.
impropriety of the act of indemnity, alluded to by the last noble Lord who spoke. He said, he had never heard it so much as asserted, that an act of indemnity answered any other purpose, than to secure the advisers of measures against private actions, arising from damages sustained by personal contracts. Such were the cases relative to the importation of hides, and stopping the ports in the year 1766, to prevent the exportation of corn. As to the law declaring those rights, so warmly contended for by the noble Duke, it could not admit of a ground for an impeachment, because that law stated nothing as describing any particular species of offence, nor consequently annexed no punishment. In his opinion, therefore, a bill of indemnity could not apply, because the measure, if at all illegal, which he was convinced it was not, called for no protection against either impeachment or private actions.

The Duke of *Grafton* began with expressing his astonish- Duke of
ment, that any Lord in that House, any real friend to his *Grafton*.
country, any man who loved the constitution he was born under, could employ his time in commenting on the letter, and explaining away the spirit of that great bulwark of the constitution, the bill of rights; that law, which as it were circumscribed within it the laws and liberties of the people of England. He should not, he said, enter into the quibbles or distinctions of Westminster-hall, or weigh each word and sentence to see what was its distinct, legal, or grammatical import. No; he should appeal to the spirit, the intention, of that new *Magna Charta*, that claim of old rights, newly ascertained, the manifest purpose for which it was framed, the coexisting circumstances that gave it being on the part of an oppressed people: should look upon it in the light of a solemn contract, entered into between the people and their newly elected sovereign; a compact meant to be binding on their respective posterity and successors. Whenever that sacred Palladium was taken away, at that instant he would be bold to affirm, the laws, constitution, and liberties of England would be annihilated. His Grace next proceeded to recount the particular circumstances, previous to the resolution, which made such a declaration necessary at that period; and adduced several very cogent arguments to shew that James the Second, had he been politic enough to accede to such a declaration, might with less noise and infinitely more safety, have effected his purposes, than he could have done by any other means; for had the letter of the law been stretched in one instance, the spirit

spirit explained away in another, the business would have been executed without risque or danger. He could not help observing, that the arguments urged by the Lords on the other side, if pushed to their full extent, would go much farther than perhaps they chose at present to avow. Certainly, if, "within the kingdom," did not comprehend the possessions of England, foreign troops, to any number, and on any occasion, might be legally introduced into Scotland; for the argument went fairly to this, Scotland being not within the kingdom at the time the bill of rights was passed, foreign troops may be introduced, and kept on foot there, without consent of Parliament. His Grace remarked, that such opinions being entertained by great numbers in both Houses of Parliament, was not what sunk so deeply into his mind; but when he heard a noble Lord, high in office, [Lord Rochford] one of his Majesty's secretaries of state, one of his confidential servants, high in his favour, and having the ear of his sovereign, avow such sentiments, he confessed he was struck with astonishment and grief, lest such dangerous doctrines may have made an impression on the best of minds, unfavourable to the liberties and peace of his subjects: yet in the midst of his anxiety on this account, he was rejoiced to hear from his Lordship, that the noble Lord in the other House, and his brethren in this, meant to bring in and support a bill for the purpose of removing the apprehensions, and dispelling the jealousies produced by so unpopular and unconstitutional a measure. If this was to be the case, he would, for his part, accept of it, and would wish to postpone the motion before their Lordships, though he must still continue to *feel* for the great interests of the nation, while on so critical and tremendous an occasion, at the very eve of a contest, which, in all probability, must for ever decide on the glory, honour, interest, external greatness, and internal happiness and prosperity; the persons to whom his Majesty was pleased to commit the government of his kingdoms had observed a most criminal silence, respecting their great line of conduct in the future progress of this very weighty and important business. His Grace likewise remarked, in answer to something which dropped from the two noble Lords who opposed the motion relative to the legality of augmenting the standing forces in any part of the British dominions out of this kingdom, that when he had the honour to preside at the treasury, and to be one of his Majesty's advisers in the year 1768, on the augmentation of the troops on the Irish establishment, from 12 to 15,000 men, he applied to the first law officer of the crown.

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at that time, whether the measure would be justifiable in point of legality, as it was repugnant to the disbanding act of William the Third, which provided that the standing military force in England should not exceed 7000 men, nor in Ireland 12,000 in time of peace; but that able man gave his opinion, that the proposed augmentation of the Irish troops would require an act of Parliament for its aid. If such was the caution of the ministers of that day, if such was the opinion of the first law officer, what shall we say to the present, where I will venture to maintain, every sanction or apology is wanting? His Grace wished, before he sat down, to know from the ministers, whether the first law officer of the crown, for whose abilities and integrity he entertained the highest opinion, had been previously consulted?

The Earl of *Rochford*, in reply, denied that he gave any Earl of assurance that the noble Lord in the other House would move *Rochford*. a bill of indemnity; or that he and his brethren in office would support it in this, if he did. All he meant, he assured their Lordships, was, that probably the noble Lord who presides at the treasury-board might, to quiet the ill-founded fears of the country gentlemen, move some proposition, or perhaps the bill of indemnity itself; but whatever measures those fears might give birth to, he would now, as he had done before, put in his claim to be understood, that he did not think there was any thing illegal or unconstitutional in bringing the Hanoverian troops into the fortresses of Gibraltar and Port Mahon, under the circumstances which suggested the measure. He said he was at a loss to know what the noble Duke meant by the charge of *criminal silence* made on him and the rest of the noble lords to whom his Majesty had committed the immediate conduct of public affairs. Surely his Grace did not intend that they should come to that House, and lay before it all their private information, produce a list of the names of those who gave it, and enter into a detail of every step intended to be taken, and every operation meant to be carried into execution, should America persist to the fatal extremity of compelling this country ultimately to have recourse to coercive measures. This, his Lordship observed, would indeed be as great an act of folly and absurdity as any attributed to them by their adversaries, throughout the whole of their ministerial arrangements.

The Lord *Lyttelton* rose, to support the sense the noble *Ld. Lyttelton*. Duke put upon the noble Earl's words. He said, it was ^{ten} in his recollection, he was sure it was in the recollection of every noble Lord in that House, that the reason, or rather

rather the apology the noble Earl in office made to that House, for putting the previous question on a motion of such singular importance, was, that a noble Lord, high in office, in the other House, intended this day to make a motion for leave to bring in a bill of indemnity, in order to obviate and remove the apprehensions of the country gentlemen. If then the noble Earl meant to retract, or explain away his words, he would be bold to say, that the present motion would meet with much stronger support than his Lordship was aware of: on the other hand, if the noble Lords in office would speak out, and pledge themselves that such a quieting measure was meant to be carried into execution, for his part, he was one that would, on the present very critical occasion, prefer a bill of indemnity to a vote of censure on the advisers of the measure. The arguments moved by the noble Earl who moved the previous question, and by the other noble Earl who supported him in opinion, afforded matter of equal surprize and alarm. Their Lordships say, the only security the people of England have against being governed by a standing army, is the bill of rights; that the bill of rights only applies in such instances, and to such particular purposes. What then, says his Lordship, is the glorious Revolution, the only sure foundation of all our liberties, the bill of rights, the compact entered into between the contracting parties at that glorious period, as well as the acknowledged sense in which this modern *Magna Charta* has been received for nearly a century, to be at once done away by distinctions, divisions, and explanations directly repugnant to the intentions of its original framers, to the spirit, to the letter, nay to both the legal and constitutional construction? I was willing to make every reasonable allowance; to grant something for expediency, more for necessity; in short, I was willing to accede to the propriety of any thing, or every thing, which might be urged in justification of the measure; but that it was legal, or constitutional, that is a proposition I can never assent to; that is a doctrine, as an Englishman, I will never endure. Though a young man, I am old enough to remember the conduct of a great minister, a steady friend to his country, I mean that of the Earl of Chatham, upon a similar occasion. His lordship ventured to call it similar occasion; yet he believed, no noble lord in the House, however sanguine for the present system of measures, would assert that the present urgency and necessity came up to the one he was going to mention. It was in the very heat of the war, when required the men necessary to recruit our navy and army on an average from fifteen to twenty thousand men annually, that that great

great statesman seeing, and very sensibly feeling the necessity of having recourse to foreign levies, resolved to raise a certain number of foreigners to be employed in the American war. His Lordship accordingly raised a German regiment, to consist of four battallions ; but how did he carry this measure into execution ? Why, in the midst of a war, the widest in its extent, most interesting in its consequences, the greatest in its immediate importance, the heaviest in point of expence ; when our coasts were daily expected to be invaded by our natural, dangerous, and inveterate enemies ; while the war even in America was yet doubtful, if not unpropitious, the Earl of Chatham, instead of pleading the great, strong, and justifiable motives of necessity ; instead of cavilling on this word, or commenting on that, in the full spirit of the constitution, in the full spirit of an Englishman, came to Parliament, to obtain its sanction. And so very careful was that great man, so tenacious of every thing which might be construed into the most trifling invasion of the act of settlement, that he procured two remarkable clauses to be inserted in the act of Parliament, which enabled the crown to take those Germans into pay ; the first providing that those troops should serve in America only ; the other, that none of the foreign officers should bear commissions higher than that of lieutenant colonel.

The Earl of *Effingham* not only disapproved of the measure of bringing foreign troops into any part of the British dominions, but the employing them at all in the present contest with America. He enumerated several very cogent reasons why he thought such a measure would be dangerous ; but more particularly, when the operations of war would be of such a nature as to bring them into the empire, if not into the kingdom, alluding to the report of 20,000 Russians being taken into British pay, either to make war in America, or to defend this country against any attack that might be made by our foreign enemies near home. His Lordship next turned his thoughts to the motion : and after expatiating on its dangerous tendency and manifest illegality, animadverted very pertinently on the danger of intrusting the care and protection of two such valuable fortresses to the care of aliens, who could never be supposed to be so warmly interested in their safety and defence as Englishmen, who, to the duty and prowess of soldiers, would always add the enthusiastic zeal of freemen and Englishmen, who felt themselves contending for nothing less than the grandeur, trade, commerce, and naval power of their country. He added, as a corroborating circumstance of the care and attention which

should always be paid by those who had the concerns of the kingdom under their direction, to this well known fact, that the commanding officer at St. Roque, or the Spanish lines, had it always in strict and positive orders to seize and improve every possible advantage, either by stratagem, open force, or surprize, for the recovery of Gibraltar.

Duke of
Grafton.

The Duke of *Grafton*, in reply to something which had fallen from two noble Lords in office, said, he was too long conversant in business, and too well acquainted with the necessity of secrecy, to wish for any communications from his Majesty's servants, which might probably subject the persons or properties of those who gave, and perhaps continue to give, the necessary informations on which perhaps plans of either hostility or concession may be formed. He said, he still had it less in his thoughts to press the noble Earl [Earl of Rochford] who so pointedly animadverted on his charge of criminal silence, to declare what were the particular steps meant to be pursued, or the specific operations meant to be adopted : nothing he assured his Lordship was further from his thoughts ; for that was not the species of information he wanted. He had heard it generally reported, it had been given out in the papers, and stated as a fact, that the noble Lord who has the conduct of the national business in the other House, informed that House, it was intended to augment our military force to seventy thousand men, and a proportionable naval establishment ; or, as it was reported, to the utmost extent ; in short, to strain every nerve in support of this very favourite war. A silence therefore on this subject, while general measures of coercion are so warmly recommended, is what I call criminal. We are hurried, or hurrying precipitately into measures of great extent and deep importance, without a ray of light to direct us in our progress. We shall sit here and argue, day after day, on the measures proposed, one by one, to our consideration, while we remain totally ignorant of the facts, by which alone we can be enabled to judge whether we are acting right or wrong. I speak here, and would wish to be understood, supposing the general measure of coercion to be wise, expedient, and in every respect justifiable. We neither know the forces which are to resist us, their numbers, discipline, or resources. On the other hand, we are as ill informed of the force we mean to employ against those people, whether they are in part to consist of foreigners ; what is generally understood will be our probable expences ; how the necessary supplies to carry on such an unnatural war are to be raised. On
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the whole, we are totally ignorant of every single point necessary to the proper determination of matters of such high and weighty consideration, points which might lead us to balance the expences, the inconveniencies, the hazards of such an arduous undertaking against the claims of America; and on the whole to coolly decide whether it would not be more wise, just, expedient, and magnanimous, to adopt conciliatory than coercive measures. It is only by such means as these, I speak it with great deference, that we can be enabled to discharge our duty; it is only by such a mode of proceeding, I am satisfied, it can be worth your Lordships while to attend your duty in this House, with honour to yourselves or benefit to the nation. His Grace closed this explanation, by saying, that by nothing he had hitherto offered, did he in the least wish to abridge or impair the royal prerogative or authority of the crown; on the contrary, he always was, and would continue, to carefully watch, as far as in him lay, any encroachments on either side; the present power of introducing foreigners was, in his opinion, not a power legally inherent in the crown; he should therefore oppose it as zealously as he would any, which tended directly or indirectly to strip it of any of its just rights.

Lord Viscount *Weymouth* contended, that neither the letter nor spirit of the bill of rights was by any means or in any degree invaded by that passage in the King's speech alluded to by the motion of this day, much less violated. What, says his Lordship, are the words of that law? That no standing army shall be kept on foot, without the consent of Parliament, in *time of peace*, within this kingdom. What is the spirit and intention of this provision? Certainly that no army shall be kept up, without the consent of Parliament, at any time. I will appeal to any noble Lord, at either side of the House, if this be not perfectly consonant both to the letter and spirit of the act. Is it pretended that there is any such thing intended on the present occasion? In times of most urgent necessity, during the recess of Parliament, a body of troops is called for, by a particular exigency, arising during that recess. His Majesty, as Elector of Hanover, urged by the most gracious motives, offers the wanted aid in one capacity, and accepts of it in another. Does such an act as this encroach on or defeat the bill of rights? Does it assert that any such power is inherent in the crown? On the contrary, does it not expressly, at least impliedly, assert the very reverse, by submitting the measure itself to the judgment of Parliament? So much, I believe, will suffice, as to the

Lord Viscount
Weymouth.

objection of keeping up a standing army without consent of Parliament; and as to the legality, I will confess fairly, for my part, that I think the measure every way unexceptionable. The law annexes these two positive conditions, "within the kingdom," and "in time of peace." Is there a noble Lord present, who will gravely assert, that the word *kingdom*, here, means all the dependencies and possessions of the crown of England? Or, if there be, is there a second Lord, who will after, seriously contend, that the present is such a time of peace as ties up the hands of the Sovereign from exerting those powers intrusted to him for the protection of every part of his dominions? If there be, I must fairly confess, that the law, thus construed, would be productive in some particular instances, not at all exceeding the bounds of probability, of evils, if possible, much more fatal to the safety of this empire, than any imputed to the measure now so loudly condemned. The noble Lord who spoke last, informs us, that there is a constant standing instruction to the commandant of the Spanish lines to be upon the look out, and whenever an opportunity offers, either by surprise, stratagem, or the known weakness of the garrison of Gibraltar, to seize and improve it, so as, if possible, to regain the possession of that important fortress. Now, for my part, this piece of information, if to be depended on, operates upon me in a very different manner from what it has on the noble Lord who imparted it; for it strengthens me still more in my opinion, relative to the propriety of the measure; because it shews how necessary it is to take care, that Gibraltar should at all times be garrisoned in such a manner as to defeat any attempt there might be made on it; in pursuance of this general military instruction. His Lordship then turned his attention to the bill of indemnity which had been so often mentioned by several noble Lords in the course of the debate. He observed that a noble Duke, who spoke early, had expressed his surprise, that any noble Lord in administration could raise a single objection to a bill of indemnity: but he begged leave to remind his Grace, and call to the recollection of the House, the conduct of some other noble Lords, when a bill of indemnity was offered, and at length forced on them, in the year 1766, for stopping up the ports, to prevent the exportation of corn. Then his Majesty was made to justify the act of suspending an act of Parliament, by the mere virtue of his royal authority; then it was, that one noble Lord [supposed to be Lord Northington] said, in mitigation of such a gross violation of the constitution

constitution and the laws, that at most the proclamation was but a forty days tyranny; it was then, that another noble Earl [Earl of Chatham] who was at that particular period supposed to have the conduct of the affairs of this country, argued strenuously against the propriety or necessity of the bill, though he at length consented to it; and it was then another noble Lord [Lord Camden] high in office, contended to the very last, that the measure was justifiable, and refused to concur in a vote for its passing, though frequently pressed by his friends and brethren in office.

The Earl of *Dartmouth* confessed, that he had been one of the advisers of the measure for sending Hanoverian troops to take possession of Gibraltar and Minorca. He denied any or the least intention of bringing the Russians into Great-Britain, nor was it, he said, determined to employ them in any manner; at the same time, if a necessity should arise, which he hoped would not, he could discover no impropriety in employing them in the manner in which they might be rendered most capable of co-operating and carrying into execution the measures which the wisdom of Parliament might deem necessary, in pursuit of the just exertion of its constitutional claims directed to the general interests of the empire. Earl of
Dartmouth.

The Lord *Camden*, pressed the illegality of the measure which the noble Lords in office had so fully and repeatedly avowed their having advised. He said it was not necessary, in order to decide on a question of such high importance, to send for a lawyer from Westminster-hall, and produce him at their Lordships bar, with a label in his mouth, to declare what was the law of the land; for the law now under consideration, he contended, was of a very different nature, and would admit in its interpretation of very few of the distinctions and technical modes of exposition, which were found necessary to come at the true construction of a matter of mere law; yet even on that ground, if the question was to be solely determined on it, he had not a single doubt but he should be able, against its warmest adversaries, whether in private or public, to prove that it was one of the most clear and decisive points that ever had half an hour's argument spent on it, or indeed the clearest which chance, ignorance, or obstinacy, ever brought into legal controversy. After elucidating, in the most satisfactory manner, the literal and obvious meaning of the clause in the bill of rights; after adverting to the spirit of that law, as applying to the grievance which was then to be remedied; Lord Cam-
den.
after

after pointing out the true construction of the letter and spirit united, as interpreted for a series of almost ninety years, and during the reigns of four princes, besides the present, three of whom were foreigners, no slight matter of consideration, he drew this obvious conclusion, that no foreign troops could be brought into the dominions of the crown of Great-Britain, without the previous consent of Parliament. His Lordship observed, that distinctions had been made between a time of peace and a time of war; but he was certain, that neither the law nor any usage justified any such interpretation. It was true, that the word *foreigners* was not mentioned in the law; but would any one infer from that, that though it was not permitted to keep a standing army of natives, it might be wise, constitutional and legal, to keep on foot a standing army of foreigners? He said he was ashamed to dwell on such puerile distinctions, were it not that such great stress seemed to have been laid on them by one or two Lords on the other side. He next entered into a view of the general question; and dwelt particularly upon two points. The first was, in relation to the charge made against him by the last noble Lord who spoke, relative to the bill of indemnity passed in 1766. His Lordship said, that he always understood it to be a received maxim in politics, that the *salus populi* was the *suprema lex*; when, therefore, the then Lord Mayor of London informed the privy council that the crop of bread corn was extremely short, not much above a third of the annual consumption, the calamity was universal and threatened all Europe, and that consequently every means would be used to drain the country of its scanty stock, so as by such means to threaten a famine; he thought, for his part, and ever would continue to think so, that the maxim of *salus populi est suprema lex* was never more applicable. It is true, it was against an act of Parliament, but he was still of opinion, with that great philosopher Mr. Locke, that there were cases of necessity, neither provided for nor foreseen, which fully justified a departure from the mere letter of the law. That was his opinion then; so much so, that he could never be prevailed on to think, that he wanted a bill of indemnity, that he wanted a pardon, for concurring with the rest of his Majesty's ministers, in preventing the dreadful consequences of a famine, perhaps in saving the lives of some millions of his fellow-subjects; but what kind of affinity or similarity there was between the
necessity

necessity of that day and the necessity of this, was what he could not possibly discover. Here it was only to give directions to have the troops ready to embark, to have the transports in the harbour, to assemble Parliament a few days earlier, and to procure a vote of both Houses, by way of address to the throne, by which means every proposed end would be effectually answered: he doubted much if a single day would be lost, nay, he was convinced, the whole might be managed in such a manner, as to avoid the loss of a single hour. The other matter he dwelt on was, the consequences that were to be dreaded, from the measures meant to be carried into execution. Those he feared would turn out to be exactly similar to what happened to the Athenians, in their contest with their colonies planted in the island of Sicily. They were a great maritime nation, they planted colonies, they increased their riches, power and maritime strength by this plantation, they grew at length mighty and overbearing, tyrannical to their dependencies, and jealous of liberty in any part of the Athenian dominions, beyond the confines of Attica. They had triumphed over their neighbours, the republic of Sparta, who were in some measure to them what France is to us, their superior at land, and their continual rival in power and greatness. What was the consequence? Intoxicated with their increase of power and opulence, they began to oppress their colonies; the colonies took arms; four generals of great note were sent from Athens to subdue them; the Athenians were defeated; more troops were sent, reinforcement followed reinforcement; at length they were totally expelled that island; not a general, nor scarce a man, ever returned to relate the circumstances of their successive defeats. Thus, deprived of every foot of land they possessed in Sicily, and divided among themselves, they shortly after fell a prey to their ambitious and inveterate enemies, the republic of Sparta.

The earl of *Denbigh* insisted, that it was not the ministry Earl of
Denbigh. that deceived or misled that House; but it was a set of men in this country who flattered themselves they would be enabled thereby to force themselves into power and office. Unfortunately for both countries, those incendiaries had been too successful. It was, therefore, necessary to convince such men, that they could draw no advantage from such arts, by which means those delusions would be dispelled; by which the people of America had been unhappily misled; or if they should pertinaciously adhere to their errors, they must be convinced, that no subject of the British empire, can appeal to
any

any other mode of decision, or be safe under any species of protection whatever, but such as the laws and constitution afford. His Lordship entered very fully into the construction of that paragraph in the bill of rights which immediately applied to the question before the House; and contended, that that paragraph by no means reached the present case, for neither Gibraltar nor Minorca could be said to be described in the words "within the kingdom," that phrase manifestly having a retrospect to the very circumstance which made it necessary to declare the sense of the whole nation on the matter; namely, James the Second keeping up a standing army, "in time of peace, within the kingdom, without the consent of Parliament."

Duke of
Richmond.

The Duke of *Richmond* observed, that it was usual with the noble Lords in administration, when they found themselves pressed in argument, to fly to sanctuary, to their usual topic of imputing factious motives to their antagonists. Such a conduct answered one end, that of drawing off the attention of their Lordships from the question; but it was however not without its advantages in a contrary direction, for it shewed the dispassionate part of the House, that the argument on every true, sound, relative ground, was against them; was tacitly deserted; when ministers and their avowed supporters were obliged to have recourse to such stale and flimsy aids, of keeping up a conversation when the point in debate had been virtually, nay actually deserted. His Grace observed that several noble Lords had asserted or had taken it for granted, that hiring foreigners was frequently practised since the Revolution, nay sometimes they had been brought into the kingdom without the previous consent of Parliament. How far this general assertion might apply, he would not pretend to determine; but this he would venture to uniformly assert, that foreigners were never, upon any pretence, brought into this kingdom without the consent of Parliament, either by treaty or address. It had been said, early in the debate, that the Hessians had been brought over in 1745, without any previous Parliamentary communication: but nothing could be more erroneous; for though they were not called over by an express act of Parliament, either then or in 1756, both Houses consented to it by an address to the throne, in one instance; and where that sanction was wanting, by some existing treaty, ratified by Parliament. As to taking foreign troops into British pay, and afterwards prevailing on Parliament to ratify such engagements, that, his Grace observed, did not come up to the present point; but even

even allowing that to be the case, some of the noble Lords, and many of the descendants of others of them, differed widely upon the subject in the year 1742, when a body of Hanoverians was taken into British pay, and afterwards the minister came to Parliament to make good the engagement. On that occasion, there was a very remarkable and spirited protest entered on the journals. Here his Grace, after reading part of the protest, read several of the names, among which were those of the Keeper of the privy-seal, Talbot, and several others. His Grace went besides very fully into the question at large, and closed his observations with this argument: The noble Lords on the other side insist that it is competent to the King to raise and keep an army in time of war, or rebellion, in any part of his dominions, previous to the consent of Parliament; that the paragraph in the bill of rights makes no distinction between an army of natives and foreigners; and that there is at present a rebellion in America. Now I will draw my conclusion, as an inevitable consequence, from these premises, that the King of Great Britain may now, or at any future time, introduce into this kingdom directly, either in time of war, or when there is a rebellion in any part of this vast empire, any number of foreign mercenaries he pleases, without consent of Parliament.

The Lord *Chancellor*, deserting what he called the quib-
bles of Westminster-hall, and the subtle distinctions of law-
yers, allowed that the fortresses of Gibraltar and Port Mahon were fairly within the spirit and meaning of the paragraph of the act of settlement, and that in the same sense too he understood it applied to foreigners, but to neither in the manner now contended for by the noble Lord who supported the motion, for if those fortresses meant or came within the description of "within the kingdom," so did America; consequently America being now in rebellion, the operation of the bill of rights law must cease till peace be restored; and on that ground the measure of sending the Hanoverian troops to Gibraltar and Minorca was perfectly justifiable. His Lordship declared that, with the rest of the cabinet ministers, he had assisted in advising the the measure.

The Earl *Gower* followed the noble Lord on the woolstack
in the same declaration, and entered into the consideration of American affairs. He said it was strongly insisted on the other side, that we should never be able to coerce America. He was sure we should; that was a fair argument. He said that the noble Duke who spoke last read a long list of names,

supposing that the sons and descendants of the noble Lords who signed that protest ought to inherit the same political sentiments with their titles and fortunes, but he perceived the noble Duke's father's name was not among the protesters, and that his principles, of course, were very different from his son's; and that was another fair argument. His Lordship defended the whole of the measures engrafted on the King's speech.

Earl of
Shelburne.

The Lord *Wycamhe*, (Earl of Shelburne.) The bill of rights is declaratory. It supposes a law which can be found in no written book or statute whatever. It can only be looked for by recurring to its principle. The only principle that can be suggested is the danger to be apprehended by keeping a standing force without the consent of Parliament. To do this within the limits of the kingdom, and in time of peace, is more dangerous and carries with it less colour of necessity. To do the same in Ireland, Gibraltar, or any of the dependencies of the kingdom, may be less dangerous; but will any man say, there is no danger? If there be danger, the difference of the degree can make no change in the principle, nor in the law founded on it. It may be asked, why was it not declared in this extent in the bill of rights? The letter of the law and the history of it, give the answer. The Parliament was satisfied that King James had raised or kept a force within the kingdom in time of peace; and their declaration of the law was naturally commensurate to his violation of it.

It must be a strange interpretation of that declaration to infer from it, that a conduct on the part of the crown which, under such aggravating circumstances was highly dangerous as well as illegal, could in a case where the danger differs only in the degree, be perfectly legal and innocent.

At a quarter past eight o'clock the House divided upon the previous question. Contents 31, and 1 proxy; Non-contents 53, and 22 proxies.

Adjourned to November 3.

November 3.

Private business.

Adjourned to November 6.

November 6.

Private business.

The Earl of *Dartmouth* laid before the House (by his Majesty's command) a paper, intituled, copy of the petition of the congress to the King, delivered to the Earl of Dartmouth,

mouth, by Messrs. Penn and Lee, on the first of September 1775.*

November 7.

The order of the day for taking into consideration a paper, purporting to be a petition to the King from the twelve American colonies, united in congress, signed by John Hancock as president; and countersigned by the respective delegates of each province.

The Duke of *Richmond*, as soon as the clerk had read the petition, rose and observed, that he now saw Mr. Penn, *Duke of Richmond.* Governor of Pennsylvania; below the bar, and some doubt might arise in the course of the day's debate, whether or not the paper now read was genuine, he urged the propriety of calling that gentleman to authenticate it, as he understood that the petition was delivered by him into the hands of one of his Majesty's secretaries of state.

The Earl of *Sandwich* opposed this proposition very strenuously. He said such a motion was directly contrary to the constant mode of proceedings adopted by that House. When witnesses were examined at their Lordships bar, notice was always previously given, and a motion made in pursuance of that notice; nor did he, since his first acquaintance with Parliament, ever recollect an instance of a witness being suddenly called to be examined, without the formalities he had just mentioned. For his part, that was his leading objection, though he suspected the noble Duke who made the motion meant to employ it to very different purposes, to fish for information relative to the matter contained in the paper, as well as to authenticate it. *Earl of Sandwich.*

The Duke of *Richmond* replied, that he did not well understand what the noble Earl meant by the word *suspect*; suspicions were created by acts, which it was presumed the actor would be desirous to conceal. That could not however be the case on the present occasion; for allowing the noble Lord's suspicions to be well founded, he saw nothing in such a procedure of which he need be ashamed. He confessed he should, if Mr Penn was examined at their Lordship's bar, be desirous to learn from that gentleman, what he knew relative to the general state of America, presuming no person was bet- *Duke of Richmond.*

* This petition is inserted in the Remembrancer Vol. 1. page 158.

ter. qualified nor none would give it with greater candour and impartiality.

Earl of *Dartmouth*. The Earl of *Dartmouth* said, that such a precedent was now proposed to be established by the noble Duke as would, in all probability, if carried, be destructive of all order. Besides, he begged leave to remind the noble Duke, that the very grounds on which it was stated, that of authenticating the petition, shewed there was no necessity for complying with the motion; for he acknowledged the receipt of such a petition from Mr. Penn, and believed himself, and made no doubt but all their Lordships were perfectly of the same opinion, that the paper was genuine.

Lord *Camden*. Lord *Camden* expressed his surprise that any Lord in that House could possibly oppose the present motion, for without debating the point of order, which he was convinced fully authorized the propriety of the motion, he should be glad to know what objections the noble Lords in administration had to it. He was sure it was out of their power to object to it, on any reasonable ground; since that was the case, he hoped their Lordships would agree to the motion.

Duke of *Richmond*. The Duke of *Richmond*, in reply to what had fallen from Lord *Dartmouth*, observed, that however well satisfied the noble Earl and his friends might be that the petition was genuine, yet he thought the formality of authenticating it became highly necessary, when it was known that Mr. Penn did not receive the petition *immediately* from the hands of the delegates; it having been sent after him to England, in order to be presented in the manner before described. He urged further, that the petition being signed by the persons assembled in congress, in his opinion it would be very proper, that Mr. Penn, who was acquainted with the hand-writing of those persons, should be called to prove it.

Earl of *Dartmouth*. The Earl of *Dartmouth* replied, that if that was the main purpose for which Mr. Penn was to be called, his examination would answer no end whatever; the paper lying on the table being nothing more than a copy of an original in his office.

Duke of *Richmond*. The Duke of *Richmond* insisted still, that Mr. Penn's examination would be equally proper, whether the original paper was immediately before the House, or in his Lordship's office; for when that gentleman came to be examined at the bar, all that would be desired from him was, to know if the paper delivered by him to the noble Lord at the head of the American department, was really signed by the persons whose
names

names were thereunto annexed ; that fact once ascertained, the proof would be compleat, as their Lordships would be then satisfied, that the copy now read was a faithful one, by the assurances given by the noble Lord who had the original in his possession.

Lord *Lyttelton* spoke chiefly to the point of order, and the numerous inconveniencies that must arise, if the present motion should be carried, and established into a precedent on future occasions. He said, if their Lordships, when summoned to deliberate and debate on any important question, should be surprized by extraneous matter, and witnesses called to the bar to be examined, on points which might introduce other subjects into discussion, it would at once destroy that order and gravity, for which their usual course of proceeding was known so eminently to excel ; in short, it would create that kind of confusion and uncertainty, which, wherever it prevails, is so derogatory to the wisdom and dispatch of business, in a deliberative assembly. As for the other part of the precedent, that of calling for *viva voce* proof, to authenticate petitions presented to their Lordships, it was a matter he would never assent to ; because, in his opinion, such a condition would be intolerable, and in many cases impracticable ; for it would amount to this, that every petition, from any part of the empire, which should in future be presented to that House, whether from the most distant part of the kingdom, from Ireland, America, or the East Indies, must be authenticated by evidence at their Lordships bar, in some instances to authenticate its contents, and in others to prove the hand-writing of the persons who may be supposed to sign it. His Lordship was however of opinion, that although it would not be proper to examine Mr. Penn, in the manner now moved for, it was competent for any Lord in that House, upon due notice previously given, to call for any person or persons who he might imagine would impart such lights as promised to lead to an elucidation of the subject on which he meant to frame his motion.

The Duke of *Richmond* observed, that the noble Lords who declared themselves adverse to the motion, on the ground that it was contrary to the usual mode of proceeding in that House, and would establish a precedent which might in future be an impediment to applications to them, in their legislative, deliberative, or judicial capacities, in the way of petition, he hoped would be satisfied, when he assured them, that no question was intended to be put to Mr. Penn, on which he did not desire it to be previously understood, that any noble Lord might

might be at liberty to rise and object to it. He said, that from matters which had fallen from several noble Lords, in the course of the debate, and the great unwillingness some of them had shewn to have Mr. Penn examined, made him feel the urgent necessity of such a proposed examination; because it proved, beyond question, that they dreaded the consequences of such an enquiry, as mortally fatal to the measures they were now hurrying the Parliament and the nation to blindly and inconsiderately adopt. For his part, he had not the honour of being personally acquainted with Mr. Penn; but, from the gentleman's religion, the great interest he had in the event of the present unhappy disputes with America, and as proprietor of one of the richest provinces of that continent, he knew no man who, from religious principles, political moderation, immediate interest, and thorough knowledge of the dispositions of the people of that country, who would be more likely to give that sort of information, which the House ought to wish to obtain, and which every true lover of his country, he was confident, would endeavour to trace to its most remote sources.

Duke of
Grafton.

The Duke of *Grafton*, rejecting the mere matter of order, as unworthy of their Lordships consideration, said, he was extremely sorry to observe such a conduct pursued on the other side of the House. The noble Duke who made the motion had pressed it with all imaginable candour; he had even gone so far as to promise for himself, and in some measure pledged the good faith of his friends, that if any question, which should in the course of the proposed examination seem to be improper, an unconditional objection from any noble Lord would be deemed sufficient reason for his Grace to desist. The aversion to any mode of enquiry, and the fixed resolution to reject every kind of information which might promise to lead to the knowledge of the state of that country, manifested this day, suggested to him very strong fears; fears that the same fatal measures which directed the counsels of last year, were determined still to be pursued. He said he was very much surprized to hear the very same language adopted on the present occasion, though the ruinous and fatal consequences, which were produced by the same arguments, and the same mistaken counsels of last session, were at this instant now so sensibly felt. Another reason for the proposed examination, and which, he flattered himself, when the circumstances were recalled to their Lordships minds, would have a proper weight with administration, was, the declaration of a noble Lord, high in office, [Lord Gower] who

who on the first day of the session, ingenuously owned he had been deceived, and attributed all the miscarriages of the last summer, and all the evils which now seem to be suspended over the head of this devoted country, to a want of full and genuine information. Such then being the case, as stated by one noble Lord, and confirmed by almost every one who spoke on the same side; and such being the evidence proposed this day to be given at your Lordship's bar; how is it possible, says his Grace, that your Lordships can hesitate an instant on the choice, though experience had not taught you the necessity of such an enquiry? But when experience has taught you the fatal consequences of your former mistakes, how is it possible that your Lordships can refuse the aid of the lights now offered to be held out to you?

Earl *Gower* said, it was unparliamentary, and extremely *Earl Gower.* improper, to refer to any words spoken in a former debate, particularly on a different question. He was however glad of an opportunity of explaining a matter which had been industriously propagated and misrepresented without doors, as if his words had imported an actual designed deceit put upon him, with intent to mislead administration. Nothing, he solemnly affirmed, was farther from his thoughts: when he said he had been deceived, he meant, that those on whose informations and reasonings administration rested, had themselves been misinformed in point of fact; or, in reasoning on the fact so represented, had been mistaken in their conclusions. This was the utmost extent his saying he was deceived went to; and he would venture to appeal to their Lordships, if there was any thing more difficult than to reason on the state and disposition of a country. It was matter of opinion on either side, in which every man was more or less liable to err; when, therefore, he said he was deceived, he begged their Lordships to understand him in the sense he had now explained himself, and in no other. He said the noble Duke near the woolstack, the Duke of Grafton, had thrown out another insinuation directly contrary to the former, at least in consequence; that his Grace had asserted, their Lordships had been made to decide on their mutilated and garbled accounts, which was, in fact, saying, that administration had intelligence, but purposely held it back. He would appeal to the candour and recollection of the noble Duke, if, on a former occasion, [the last debate] he did not himself condemn the impropriety of laying the information before the House, in the exact state it was received; when probably such a conduct would

would be productive of so many fatal consequences, no less than endangering the lives and properties of those, whether Englishmen or natives, who have, through this contest, been the professed and steady friends of this country. The word *garbled* therefore, as applied to the conduct of administration, was, in his opinion, a very improper word. *Garbled*, according to its usual reception, particularly as applied here, meant an omission of every thing which might inform their Lordships properly on the subject; and bringing forward only such parts of the information as would answer the particular purpose of those who had an interest in suppressing the real sense of the writer or informant. This he understood to be the true import of the word *garble*; a sense he would venture to affirm in which it was never more improperly applied; for administration had all along laid every necessary information before their Lordships, and held back only that part which related to matters of mere private consideration, or where a disclosure of facts and circumstances might endanger the personal safety or property of the persons concerned. On those general grounds, as immediately applying to the question before their Lordships, he was very unwilling that Mr. Penn should be examined; but upon none more, than that his evidence might probably affect his own interests in America. It might create prejudices against him of a most fatal tendency. He was perfectly satisfied of the impartial, candid disposition of that gentleman; yet if it should appear that he had formed his opinion on the other side of the question, if any motion was to be made in consequence of those opinions, it would be necessary to call other evidence, before their Lordships could come to a determination; therefore taking it in either light, he did not see what good purpose Mr. Penn's examination could answer, or to what end it was ultimately directed.

Duke of
Richmond.

The Duke of *Richmond* changed his ground; he said, if the noble Earl who spoke last meant seriously to go in to the enquiry, and would pledge himself to the House that he would do so, he was very willing, on so important a consideration, to give up his motion for Mr. Penn's examination, and rest on that assurance, that an enquiry would be set on foot, in order to come at that species of information, so necessary to direct the progress of their future proceedings.

Earl of *Effingham.*

The Earl of *Effingham*, observed though the noble Duke had given up the point of order, he was perfectly satisfied that most, if not all, the witnesses examined relative the fishery bill

bill of last session, were examined without any previous notice whatever being given.

Lord Viscount *Weymouth* said, he never knew an instance where a witness was called suddenly to the bar, without previous notice; that it had been the constant established usage of Parliament to do so; and that a deviation from that rule now, would open a source of confusion and disorder in future, which it was the duty of every Lord in that House to do all in his power to prevent. But the main point, and that he would wish to principally press on their Lordships, was, that if Mr. Penn was called to the bar and examined, it would have this effect, that after his evidence had been received, the noble Duke who called for the paper, would probably frame some motion on the information then given, by which means, let that be what it might, the House would be led of course to come to some resolution, arising from what they had then heard. No man had a higher opinion of Mr. Penn's impartiality than he had, but, still, whatever he might impart to the House, either by way of information or otherwise, would be but the opinion and information of one man, who, however respectable, could not be supposed every way competent to decide, so as to govern the determination of that House upon a subject of such great and singular importance. He would therefore submit it to the noble Duke, if it would not be much properer to withdraw his motion for the present, and appoint some future day for the discussion of a subject of such magnitude, on which other persons conversant in the present situation of America might be ordered to attend and be examined at the same time with Mr. Penn, so that the whole of the information might be received and judged of together.

The Duke of *Richmond* replied, that it was always understood, when any noble Lord in that House moved for a paper, that he had some motion, directed to some particular object, to propose. That, he said, was his intention on the present occasion; but as the noble Viscount who had spoken last, had pressed the impropriety of resting entirely on Mr. Penn's evidence, he was very willing to have that gentleman examined for the present, and to postpone his motion till the next day. This he presumed would completely obviate the noble Lord's objection against coming to any sudden resolution, barely on the information now desired.

Lord Viscount *Townshend* insisted, that it was impossible to admit Mr. Penn to be examined on any ground offered by the

noble Duke. He assured their Lordships, though he objected to Mr. Penn's examination, he did not mean to impute the smallest degree of partiality to that gentleman: his evidence, however, must be very improper, as laying a foundation to ground a motion on; because, be his information ever so impartial and well selected, it would still be no more than the limited knowledge or particular opinions of a single individual.

Duke of
Grafton,

The Duke of *Grafton* rose a second time, and lamented in the most pathetic terms the fixed determination that had in the course of the debate shewn itself among the several members of administration, to shut out every species of information, and to rush headlong on their own ruin; and which was much worse, probably to hurry on the ruin and destruction of the nation. His Grace observed, that a noble Lord high in office [Lord Gower] seemed unwilling to consent to examine Mr. Penn, on the idea that it might affect his private interest, or that his evidence might affect persons now in America. He understood general Gage was daily expected home to this country, and he presumed, if any information should be expected from him, the same apology would apply; his evidence might, nay it must affect persons in America, for there the scene is laid, there the persons immediately concerned reside. What is this, adds his Grace, but very plainly telling us, that we are to have no information at all? for I will venture to contend, that if the present motion be rejected on the ground now urged, that no motion of a similar nature, respecting the affairs of America, can possibly succeed. What is this, but giving us to understand, that we must remain at the brink of that precipice, on which every lover of his country, every true Englishman, stands trembling and waiting the instant in which the fate of his country shall be irrecoverably decided, and whither, I may add, he has been led blindfolded or compelled to grope his way? Are we then to trust to the same assurances by which one noble Lord was deceived, or shall we, like men who prefer the call of duty to every other consideration, endeavour to obtain lights in this business, that have hitherto been denied us? For my part, though I have the misfortune to differ from the noble Lords in office, I am still open to conviction. I have been informed of *some* things, have heard a *great deal*, and have, according to the lights I have been able to obtain, formed an opinion; but I frankly declare, that on being better informed, I should gladly embrace the truth, I know no man better calculated to tell it us, than

than the gentleman whose examination is now moved for : for besides his known disposition to candour and impartiality, he has every possible inducement to reveal it ; and not one single motive for suppressing or withholding it. Let me therefore entreat, nay supplicate the noble Lords in administration to agree to the motion : on this point surely, there should not be a second opinion in this House. If your Lordships mean seriously, and will tell us fairly, that you have information to lay before the House, and will fix a time for submitting it to our consideration, I shall wait with pleasure, and rely in full confidence, on the faith of such an assurance. If, on the other hand, you tell us you have no information of your own, and that you are determined to reject all other, however important in its nature, at that instant, I shall augur the worst, the most fatal consequences, from so unparliamentary and unprecedented a mode of proceeding.

The Lord *Wycombe* [Earl of Shelburne] rose to rectify one Lord *Shelburne* or two trifling mistakes of the noble Duke who made the motion. He said, that gentleman was not of the religious profession his Grace seemed to allude to, nor was he proprietor of the province of Pennsylvania ; but he acted there in a character, which in every respect fitted him to be one of the properest persons imaginable, not only to be publicly examined, but specially consulted. He acted there as governor, by which he had the means of knowing the disposition of the people within his government, and the strength of those who were for supporting the claims of the mother country, if any such there were. He must likewise know in a great measure, the prevailing disposition of the whole American continent ; as the place where the delegates and their followers chose to assemble, was in the capital of that province over which he presided. His Lordship entered shortly into the general reasons so often urged, for examining Mr. Penn ; and concluded with pressing on the noble Lords, the propriety of acceding to the motion, or of promising to produce evidence on some future day. A refusal to so reasonable a request, would in his opinion, be fairly acknowledging, that they were ultimately determined to withhold every species of information, and consequently to stifle every degree of enquiry whatever.

The question was put, and the House divided. Contents 22 ; non-contents 56.

As soon as the numbers were declared, the Duke of Richmond moved, " that Mr. Penn might be ordered to attend, in order to be examined at their Lordships bar to-morrow."

[This motion produced another debate.]

Lord Lyttelton.

Lord *Lyttelton* thought the notice much too short, and recommended Wednesday or Friday se'nnight. [This day was Tuesday.] He said, it would be a very singular hardship on Mr. Penn, to be obliged to attend at their Lordship's bar, and to undergo a long examination, in the course of which a variety of questions might be propounded, difficult to answer, on many accounts, and in some extremely unpleasant and disagreeable. On this account, as well as wishing to give the gentleman time to arrange his ideas on so important a subject, he expressed a desire, that the examination might be deferred till one of the days he mentioned. His Lordship made no motion.

The Duke of Richmond.

The Duke of *Richmond* observed, that he imagined his Lordship's solicitude might be spared. He believed Mr. Penn was fully prepared; nay, it might be fairly and reasonably presumed he was; as he must, from the nature of his office, connections, and situation, have frequently turned his thoughts to the subject; it was the general, the only topic of the country he had just left; in fine, it was uppermost in every man's mind, almost on either side of the Atlantic, who reasoned or thought at all on subjects of such a nature.

Earl Gower.

The Earl *Gower*, to point out the impropriety of examining Mr. Penn, either as his information might affect himself, or affect others. He said, the consequences of disclosing matters, in which several persons now in America were concerned, ought to be proceeded on with all possible caution and circumspection.

Earl of Dartmouth.

The Earl of *Dartmouth* reasoned in the same manner; and proposed that Mr. Penn should be indulged with a privilege of refusing to answer any question which he should imagine might be injurious either to himself or to others. He likewise objected to the motion in point of time, and proposed an amendment, to the purport of the amendment first suggested by him; but he framed no question on it.

Ld. Camden.

The Lord *Camden* condemned the noble Earl's proposition, or amendment, in strong terms. It was true, he said, that House was not tied up by the rigorous rules of proceedings in relation to evidence observed by the courts in Westminster Hall; for though they were a court of law, they acted upon a more liberal plan. They excused on account of indisposition; they made great allowances in respect of their mode of examination; they pressed no gentlemen wantonly into disagreeable

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agreeable situations : they avoided, as much as possible, any explanations that might hurt the feelings of the witness. All those liberal modes of proceeding they had constantly adhered to. In the exercise of their judicature, they acted with a noble and indulgent liberality ; but in so doing, they took care never to turn their backs on the eternal obligations they are always under of dispensing justice, as the first and most essential object of their duty ; and their strict attention to such a conduct still became more necessary, according to the magnitude of the object in contemplation. What then, says his Lordship, is the purport of the noble Earl's proposition ? Why, that in a matter every way answering to the cases I have discriminated, from ordinary occurrences, that in such a matter Mr. Penn shall be excused from answering only as much as he pleases. No, my Lords, I trust no such doctrine will ever prevail in this House. Though I have as high an esteem for the gentleman, whose name has been so often mentioned in this debate, I confess, if he were my dearest and most intimate friend, I should be extremely sorry, I should positively reject any proposal for granting so improper and unprecedented an indulgence, particularly on the present occasion, when so much may probably depend on his testimony ; when I may venture to add, his testimony may nearly affect the dearest and most important interests of this country.

The Earl of *Denbigh* said a few words against the shortness of the time ; and moved, that Mr. Penn's examination should be fixed for the ensuing Friday, the 10th. Ld. Denbigh.

The Lord *Wycombe* [Earl of Shelburne] closed the debate, Lord Wycombe. and was severe on the arguments used by the noble lords in administration, relative to concealing people's names. He said, he always suspected those who gave private information under a condition of secrecy. This species of secret-telling was generally founded in personal interest, or sinister views ; for which reason, whenever secrets coming under this description, were imparted to him, he never hesitated on the propriety of repeating them, unless absolute silence was enjoined. Such were the sort of persons, and such were the views, he had strong reason to suspect, by which the noble Earl in office, and the rest of his brethren, had been deceived ; and he was sorry to understand, by the whole of the doctrines and arguments urged in the course of the debate on the other side of the House, that such men are to be suffered to pursue their own interest, at the expence of the public ; and by being

ing thus protected by promises of concealment, will in the end, he feared be permitted to escape with impunity.

The question was put upon the Earl of Denbigh's amendment For it 52; against it 21.

November 8.

Private business.

November 9.

Private business.

November 10.

Duke of
Richmond.

The Duke of *Richmond*, before he began to examine Mr. Penn, begged leave to remove an apprehension which seemed to prevail with several of their Lordships the last day, lest that gentleman, from the delicacy of his situation, should be obliged to answer any question that might embarrass him in relation to persons or opinions on which he would wish to be silent. Aware of this, his Grace informed the House, that he had drawn up the material questions he meant to put to the witness, and delivered him a copy, desiring to point out such, if any, as he wished to decline answering; but Mr. Penn, after having perused the paper, returned it to him, with an assurance that none of the questions came within the description his Grace seemed so solicitous to avoid.

Earl of
Sandwich.

The Earl of *Sandwich* animadverted obliquely on this procedure; said, it looked as if the questions and answers had been previously consulted and agreed on between the noble Duke and the witness.

Duke of
Richmond.

His Grace observed, that was a most extraordinary interpretation the noble Earl put on his conduct: he imagined that the candour he had used on this occasion, would have met with a very different construction; and reprehended the noble Earl very severely, on the impropriety of his conduct.

Earl of
Sandwich.

The Earl of *Sandwich* replied, that he was within the judgment of their Lordships, whether he deserved the reproof now ven him; and explained his words, by saying he did not mean any previous consultation as originating from his Grace, but merely a general consultation relative to the subject of examination.

The order of the day being read, for taking into further consideration the paper laid before the House by the Earl of Dartmouth, on Monday last, (by his Majesty's command) intituled, Copy of the petition of the Congress to the King, delivered to the Earl of Dartmouth by Messrs. Penn and Lee,

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on the 1st of September, 1775; and for the Lords to be summoned; and for the attendance of Richard Penn, esq.

The said Richard Penn, esq. was called in, and examined at the bar as follows, viz.

Question. How long have you resided in America?

Answer. I have resided there four years.

Q. How long was you in the government in Pennsylvania?

A. Just two years.

Q. Do you know, or have you heard, of any violence or unfair proceedings, in the election of the members of the continental congress?

A. I have not heard of any.

Q. Do you think the members are men well informed of the temper, disposition, and strength of their respective provinces, and capable of conveying the sense of America?

A. I think they are men of character, and capable of conveying the sense of America.

Q. Do you think that their several proceedings do in reality convey the genuine sense of those provinces you are acquainted with?

A. They do undoubtedly convey the sense of the provinces they represent.

Q. Have you any reason to doubt they do convey the true sense of the other provinces?

A. They certainly do convey the sense of the other provinces also.

Q. Do you think the provinces will be governed by their decisions?

A. I firmly believe the provinces will be governed by their decisions.

Q. Do you not think that the present war, on the part of America, is levied and carried on by the directions of the congress, and supported by the inclination and zeal of the colonists, in defence of their liberty?

A. This war is levied and carried on by a sense of the defence of their liberties, as they think.

Q. Can you think that it is levied or carried on by any other means or persons?

A. I do not think it is carried on by any other means or account.

Q. Are you personally acquainted with many of the members of the congress?

A. I am acquainted with almost all the members of the congress.

Q. Do

Q. Do you think they levy and carry on this war for the purpose of establishing an independent empire?

A. I think they do not carry on the war for independency; I never heard them breathe sentiments of that nature.

Q. For what purpose do you believe they have taken up arms?

A. In defence of their liberties.

Q. Was you in America at the time the stamp act was laid?

A. I was.

Q. What effects did it produce?

A. It caused great discontent, uneasiness, and distress.

Q. Was you there when it was repealed?

A. I was.

Q. What effects did the repeal produce?

A. The repeal gave great joy, and the anniversary was kept as a day of mirth and festivity.

Q. Were the Americans satisfied with their condition, notwithstanding the declaratory act accompanied the repeal of the stamp act?

A. They were satisfied with their condition, notwithstanding the declaratory act.

Q. If Great Britain had left things in the state they then were, do you think America would have remained content?

A. I think they would have remained content.

Q. Is it the general opinion in America, that they are able to resist the arms of Great Britain employed to enforce taxation and the late acts complained of in America?

A. It is the opinion of all I have ever conversed with.

Q. Is the spirit of resistance to these acts general, as far as your knowledge goes?

A. Quite general.

Q. What force has the province of Pennsylvania raised?

A. When I left Pennsylvania they had 20,000 men in arms embodied, but not in pay, and 4500 men since raised.

Q. What were these 20,000? militia, or what?

A. They were volunteers throughout the province.

Q. What were the 4500 men?

A. They were minute men, when upon service in pay.

Q. Are they included in the 20,000 men, or exclusive of them?

A. Exclusive.

Q. Doth the province contribute money besides to the continental army?

A. They

A. They do.

Q. How many men fit to bear arms is it supposed there are in Pennsylvania?

A. Sixty thousand.

Q. What proportion of these 60,000 men do you believe would willingly come forth, if necessary, in the present contest?

A. All, I believe.

Q. Doth Pennsylvania grow a sufficient quantity of corn to supply its inhabitants.

A. Much more than is necessary, for they export considerably every year.

Q. Do they make gunpowder in Pennsylvania?

A. They have lately.

Q. Have they taken any methods to procure salt petre?

A. They have established several works for that purpose.

Q. Do they cast brass cannon?

A. They do in the city of Philadelphia.

Q. Have they the materials and means of casting iron cannon?

A. They have in great plenty.

Q. Do they make small arms?

A. They do in great numbers, and very compleat.

Q. Is it not reckoned that there are in Pennsylvania and New York many strong posts and considerable rivers?

A. There are.

Q. Are there bridges over the principal rivers?

A. Bridges are not common, in general there are ferries, the rivers are too rapid for bridges.

Q. Do they build ships in Pennsylvania?

A. They do.

Q. Do they build them expeditiously?

A. Very expeditiously.

Q. Of what burden?

A. Three hundred or four hundred ton.

Q. Did the congress and the people in general seem dissatisfied with the reception their petitions had met with here?

A. The colonies were dissatisfied with the reception of their petitions; they had received great hopes from that I brought over, which was stiled the olive branch, and I was complimented by my friends upon being the bearer thereof.

Q. If conciliatory measures are not speedily pursued, is it not to be feared that the congress will form some connection with foreign powers?

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A. It is greatly to be feared, if conciliatory measures are not speedily pursued.

Q. If any connection with foreign powers should be formed, do you not think that it will be very difficult to persuade America to renounce engagements she has once entered into?

A. I do.

Q. When you delivered this petition, did the Secretary at State ask you any questions relative to that country?

A. None at all.

Q. Did he, or any other minister, at any other time since your arrival, ask you any questions, as to the state or temper of America?

A. I have not been asked any questions by persons in authority.

Q. Did most thinking men in Philadelphia understand the refusal of the petition would be a bar to all reconciliation?

A. They did.

Q. [*from the Earl of Sandwich*] Have you ever read the declaratory act?

A. I have not read it.

Q. Have you not heard of it?

A. Yes I have heard of it, but not much discussed.

Q. Do you think that the colonies assent to the following words, "That the colonies and plantations in America have been, are, and of right ought to be, subordinate unto, and dependent upon the imperial crown and Parliament of Great Britain?"

A. The colonies, I believe, are inclined to acknowledge the imperial authority of Great Britain, but not in taxation.

Q. Do you think they acquiesce in every other sense of the declaratory act, except taxation?

Duke of Richmond.

The Duke of Richmond objected to the question. He insisted, it was neither fair nor Parliamentary, to lead the witness into discussions of such an intricate nature, for the purpose of involving him in confusion and consequent contradiction. It was a subject of a very abstruse and intricate nature; men of the first rate abilities and experience entertained different opinions concerning it, and it was of course out of the view entirely of examinations at their Lordships bar.

Earl of Sandwich.

Lord Sandwich replied, he was strictly within order; that the witness's own sentiments were not desired; but seeming to be so well acquainted with the persons of the members who composed the congress, it was probable they might have

have communicated their opinions to him on the present subject of inquiry.

The witness at the commencement of this conversation, having been desired to withdraw, was again called in, and replied.

A. Believes the colonies acquiesce in the words of the declaratory law.

Q. Was there no violence used in the election of the members of the congress?

A. I know of my own knowledge only respecting Pennsylvania, where they were elected by the house of assembly.

Q. Do you know all the members of the congress?

A. I am acquainted with almost all of them.

Q. Do you know Mr. Harrison?

A. I do, he is delegate from Virginia.

Q. Is he a man of good character?

A. I believe him to be so, I never heard to the contrary.

Q. Is he able to convey the sense of the province he represents?

A. I imagine so, or they would not have elected him.

Q. Are you acquainted with the sentiments of America in general?

A. I am particularly acquainted only with the sentiments of Pennsylvania.

Q. Have you heard of the resolutions of Suffolk in Massachusetts bay?

A. I have.

Q. Have the congress declared their approbation of them.

A. I believe they have, it was in the public papers.

Q. Have you not heard of violence committed on persons for speaking their opinions?

A. Not in Pennsylvania.

Q. Are the sentiments of the northern and southern provinces similar?

A. I believe they are.

Q. Are the people of the different provinces in a state of freedom?

A. They think themselves so.

Q. Would not persons who were to advance sentiments different from the congress be in danger?

A. I believe they would.

Q. Do not you know of people having been persecuted for their opinions?

A. I do not know of any such thing in Pennsylvania during my residence there.

Q. Have you not heard of such things in other colonies?

A. I have heard so.

Q. What notice did the congress take of the resolution of the House of Commons last year?

A. I do not know, they always keep their deliberations to themselves.

Q. Was the plan proposed by Lord Chatham last year taken notice of by the congress?

A. Not that I know of.

Q. Do you know whether the congress published any thing as to the resolutions of last year?

A. Not that I recollect.

Q. Was the conciliatory plan of last year considered in the provinces?

A. It was considered in Pennsylvania, and rejected by the house of assembly, because they would not forsake their sister colonies, nor do any thing without consulting them.

Q. What sort of men were the 20,000 men who offered to enroll themselves?

A. They were men of the first character and fortune.

Q. Were they not all persons of property or possessing land?

A. There might be some others among them, but in general they were so.

Q. Unless the congress had the confidence of the Americans, could they have any other means of enforcing obedience to their orders?

A. They could not.

Q. Doth the congress meet with the general approbation of America?

A. When the congress was first proposed no one opposed it, it seemed to be the general wish of the people.

Q. Could a sufficient number of people be found to support any one in speaking or writing against the congress?

A. No.

Q. [*from the Earl of Denbigh*] Are you master of the charter of Pennsylvania?

A. I believe I am, *I have read it often.*

Q. Are the inhabitants well satisfied with their charter?

A. I believe they are perfectly so.

Q. Do you know the clause that subjects them to taxation?

A. I do

A. I do know that clause.

Q. Do you think they are satisfied with it?

A. Yes.

Q. Is it not the object of the congress to throw off the regulations of their trade?

A. No.

Q. Have the congress persecuted people?

A. Not to my knowledge.

Q. Would not the most opulent inhabitants prefer freedom under this country to what they now enjoy?

A. They would prefer it, to any other state of freedom.

Q. Do you think they wish to support the measures of the congress at present?

A. It is firmly my opinion that they do, but wish at the same time for a reconciliation with this country.

Q. When you said that Pennsylvania was satisfied with the clause in their charter concerning taxation, did you mean to say that they were willing to be taxed by Parliament?

A. I don't believe Pennsylvania would be satisfied to be taxed by this country and by their own government too.

[*Withdrew.*

The Duke of Richmond said, he would shew the necessity of an immediate reconciliation between Great Britain and her colonies. His Grace observed, that the colonists were disposed to an amicable adjustment of differences, was evident from the very last petition which had been presented from the congress to the King. The prayer of that petition was, "for a restoration of peace," and it was pressed home on the consideration of Parliament by the language it was clothed in, which was that of dutiful submission to the sovereignty of Great Britain, as far as the sovereignty was compatible with those rights secured to freemen by the constitution of the empire. This, and infinitely more might be said in behalf of the restoration of peace, "that it was the object panted after by one, and it was the only thing conducive to the happiness of both of the belligerent powers." Should the war be pertinaciously pursued, what, unless carnage, desolation, an augmentation of expence, and every evil resulting from civil discord, were to be expected? If the conquest of America was the measure proposed, in his apprehension, the difficulties resulting from the attempt, were of such a magnitude as hardly to be surmounted in the given state of things. The Americans, whether they had or had not the courage to make use of arms, were

Duke of
Richmond.

were at least expert in the mode of using them. They had resources within themselves for the subsistence of their armies, and they were intimately acquainted with all the passes and defiles throughout their country. On the other hand, an army transported from England to America had subsistence to seek for on the spot, or must wait in expectation of succours from Great Britain. To any peer who had consulted the state of the country, it must be evident, that there was one almost insuperable difficulty with which an army would have to struggle. America abounded with vast rivers; the rapidity of the currents rendered the construction of bridges so insecure, as hitherto to dissuade the inhabitants from the futility of the attempt. An army, therefore, would find those rivers so many natural barriers against every effort they might make to penetrate the interior parts of the country. But admitting the army advanced to any given spot conjecture might chuse to specify; was it certain, that by the conquest of this or that town, the spirit of the people would be broken, or the ferocity of their passion for liberty be restrained within just such bonds of decorum as Parliament might prescribe? If this could not be ensured, the depopulation of villages, or the levelling of towns, were triumphs which cruelty only could delight in, or a thirst for blood propose. What proofs, however, had we to exhibit, that even our arms would be attended with such success, as to carry fire and sword undefeated throughout the continent? The troops under the command of General Gage had acted bravely; but what victory had they achieved? The unhappy affair at Lexington evinced, that those regiments which were to *look* the Americans into subjection, did not altogether carry such terror in their countenances. Hence, in his judgment, from the specimens already afforded; from considering the state of the country on the one hand, the disposition of the people on the other, and the various accumulating difficulties attending the subsistence of the army, in proportion as it was farther advanced from the mart of supplies, all these circumstances collectively taken, formed grounds sufficient to pronounce on the impracticability of the conquest.

But laying aside for one moment the practicability of conquest, whither were we to turn our eyes for that Colossian army, by which the reduction of America was to be effected? The noble Duke had heard of 20,000 Russians. This might be mere matter of report, but as ministry did not think it expedient

expedient to afford Parliament any solid information, report was all that peers now had to debate on. There was such a fluctuation of men, though no change of measures, that it was impossible for him to conjecture to whom he should apply for information. Whether or not the noble Lord in red [Lord Lyttelton] was now a minister of the day, could not with certainty be pronounced; if the peer alluded to was in the secrets of government, he might possibly indulge the House with some information respecting the 20,000 Russians intended to be sent against America. In the interim, the noble Duke thought it by no means inexpedient to state the expensiveness of the measure, as a principal reason why it should be reprobated.

The transportation of 20,000 Russians would cost government 500,000*l*. An equal number of British troops should be sent at the same period, or ministry might find, that the Russians, instead of conquering America for England, would take possession of it themselves, in virtue of that law of conquest, acknowledged by all freebooters. That the Russians would gladly emigrate to America, no person could doubt, who was in the smallest degree acquainted with the dispositions of those people. Shoals of Cossacks were continually deserting their country, to seek more comfortable settlements in the north of China. Seventy thousand of these Cossacks, proceeding on such a plan, had lately bidden adieu to the Russian empire. It could not therefore be imagined, that twenty thousand Russians would have the least objection to be sent, free of expence, to America; but there was much reason to suspect, that, when there, they might think the advantages resulting from submitting to the American congress preferable to those they could derive from defending the measures of a British parliament.

His Grace next treated the plan of sending live stock to Boston, in order to supply the King's troops with fresh meat, with great ridicule, and shewed the difficulties the army would have to encounter, supposing they should be able to penetrate into the country; a close country in some places, in others abounding in forests and underwoods, intersected by deep and broad rivers; but, above all, a country where every bush would conceal an enemy, where the cultivated parts would be laid waste, and the army, if any army could march or subsist, would be obliged to draw all its provisions from Europe, and all its fresh meat from Smithfield Market--Supposing, then, that the troops had scarcely any thing to impede their

their progress, yet the necessity of carrying along with them every thing they wanted, through a country thus rendered desert, he contended, would give birth to such an innumerable train of difficulties, as no general, however experienced, would be able to obviate; nor no troops, however brave, be able to surmount. To this picture he contrasted the contents of the paper now on their Lordships table, the petition from the continental congress to the King, which breathes nothing but loyalty and obedience to his Majesty, and submission to the constitutional claims of Parliament. Here his Grace referred to several passages, expressive of those sentiments, and again alluded to several parts of the evidence in affirmance of their sincerity; and concluded by drawing a picture of the various blessings that would be derived, and the innumerable evils that would be averted, should their Lordships think proper to take the petition into consideration, on the foot of deeming it a proper foundation of treaty and concession. His Grace then moved, "that the petition from the continental congress to the King, was a ground for conciliation of the unhappy differences at present subsisting between Great Britain and America."

Earl of
Dartmouth.

The Earl of *Dartmouth* contended, it was impossible to recognize the petition, which was the subject of the present motion, without at the same instant relinquishing the sovereignty of the British Parliament. It was no longer a question about taxation, about the *quantum* to be raised, or the mode of raising it; it was not the conquest, but the allegiance of the colonies, which administration were desirous of obtaining. In estimating the force necessary for the subjugation of America, as well as in stating the necessity of immediate conciliation, the noble Duke had proceeded on the supposition of there being two equal belligerent powers engaged in a contest, which it was the interest of both to have decided by accommodation. Had the noble Duke purposely forgotten that the belligerent power, whose prowess he had so much extolled, was composed of subjects, now in open rebellion against the parent state? In proportion as the Americans were more capable of resistance, the virtue of abstaining from such an unjustifiable conduct, would have been more conspicuous. To extoll, therefore, the power of the colonists, was only to heighten the degree of their guilt, in exerting that power against the very state which had afforded them protection through an age of infancy, and had nurtured them to manhood, at the expence of blood and treasure.

The

The noble Lord adverted to a question which had been propounded to Mr. Penn, respecting "the silence of the secretary of state for the colonies, when the petition from the congress to the King was delivered for presentation." It had been remarked, with some degree of surprize, that not a syllable of answer had been returned. Was not silence in matters of this nature perfectly conformable to the usage of office? Was it not a fact of notoriety, that the King is not expected to give an answer to any petition, unless presented to him on the throne? * It would have been highly indecent, therefore, in the secretary, to have given an answer unauthorised. If the silence was construed into a disapprobation of the petition, it was, in the noble Lord's opinion, a very justifiable construction. The petition, in terms, was unexceptionable, but there was every reason to believe that the softness of the language was purposely adopted to conceal the most traitorous designs. Did it become the offending party to dictate the terms on which peace would be accepted?

The Lord *Wycombe*, [Earl of Shelburne] began with observing, that this was not a time to enter into the conduct of the Americans on the one hand, or that of ministers on the other; yet he could not think it possible but that a day must come, when the conduct of ministers would be enquired into. For the arrival of that day his Lordship reserved himself; in the interim, he could not return to his habitation with an approving sense of having discharged his duty, without delivering those sentiments which, after making up his mind on the subject, he professed to flow from the principles of his heart.

His Lordship entirely concurred with the motion; he adopted the petition from the congress to the King, as affording grounds of conciliation; he closed with those grounds, and he thought administration should do the same, for this, amongst other cogent reasons, because there remained no other alternative.

In his apprehension, there were only two obstacles which could be urged against the motion for accepting the petition from the congress as a basis of conciliation. It might be urged in the first place,

* Lord Dartmouth said this when the last petition from the American congress was presented; to which Mr. Lee replied, that an answer had been given to the former petition from the same congress, which was *not presented upon the throne*. His Lordship made no reply; the fact was undeniable.

That to yield to the proposal of the colonists was to give up the point of taxation.

In the next place it might be censured,

As derogating from the dignity of Parliament, to treat with an assembly not legalized as a congress.

The first objection was nugatory ; it was not in the order of time to urge such an objection. The point of taxation had repeatedly been given up, even by the ministers themselves. To make that an obstacle, which had been already yielded as of no avail, was to conjure up the phantom of an objection, for the purpose of combating the substance of truth. The right of taxation had, from the first, been chimerical. Expedients to obtain an acknowledgment of that right had been several ways tried. Taking money without the consent of the people, was so fundamentally wrong, that the more we consider it, the more we must be convinced that we have no right to tax America. No subtlety of lawyers can subvert this truth ; nothing could be more directly in point than the example of Ireland. Ireland had been the place chosen for a trial of skill, because Ireland stood in so similar a predicament with America, that an acquiescence in the matter of taxation would afford a precedent to ministers, for coercing America with right on their side. Yet notwithstanding all the ductile arts of government ; notwithstanding the advantages resulting from a great court Lord sent over lord lieutenant to that kingdom, and a military secretary, the Commons could not be prevailed on to advance a single step beyond the usual track. It was found impossible to persuade the managers of the business to let the term of "Parliament" be foisted into the address : not but that the advantages held out were considerable, for assurances had been given by the servants of the crown, that no bad use would be made of the concession. On the contrary, let the American war cost what it would, Ireland should never be called on to contribute a shilling towards defraying the expence. From this it was too plain who were to be the unhappy sufferers under the burthen of this ruinous and unnatural war. The rejection of the proposal evinced the extreme caution of Ireland not to afford a colourable pretext for the exercise of a right, the existence of which she formally disclaimed. Hence the precedent, so industriously laboured for, was not so happily created as ministry could have wished ; and hence the point of taxation had been yielded, because the arguments of subtlety were not sufficient for its support. The point of taxation

tion having been given up, for what were we longer to contend? And if there was nothing of a substantial nature for which a contest should be continued, peace should be immediately embraced, as the only eligible alternative.

Admitting the necessity of peace, what prevented but that we should set about the work of accommodation? Should the idea of treating with a "congress" obstruct our procedure in pacific measures? There was a time when American congresses were highly respected by government. When Lord Halifax, Mr. George Grenville, Mr. Oswald, and other able men sat at the board of trade, an American congress had been constituted by their advice; the measure met their ideas. What wise men once approved, deserved better treatment than hasty reprobation.

If it derogated not from the dignity of Parliament, to treat with the congress, it remained only to consider what were the grounds of conciliation afforded in the petition from the delegates. His Majesty was besought "to recall his troops;" which could only be construed as a prayer for the suspension of arms. "A repeal of sundry acts were solicited." The acts alluded to could only mean those which struck at the fisheries, at the trade, and at the American charters, added to that infamous Canada bill, which sacrificed the law, the liberty, and the religion of England, to French law, French despotism, and Popish superstition.

The Americans had talked of the repeal of the acts passed since the year 1763. The noble Lord conceived this proposition to contain no more than the colonists wished for the repeal of the "burthenome parts of those acts." An absolute and unconditional repeal, it would neither be wise in the one party to ask, nor prudent in the other party to grant. So far as the custom-house laws in America were necessary to the due regulation of trade, and the maintenance of our monopoly, he should be for supporting them.

Admitting ministry thus far advanced in a plan of conciliation; as a suspension of hostilities would carry the appearance of peace, a restoration of charters would wear the aspect of returning liberty; both measures would be considered by the Americans as evidencing a desire of accommodation. Thus far then, in the judgment of the noble Lord, the petition afforded grounds of conciliation. Were these grounds adopted he pledged himself to the House, "that he would be answerable with his life, Great Britain might afterwards dictate terms for herself." This proposition surely met the ideas of those who were most strenuous in asserting the supremacy of this country; for could there be a more exalted in-

stance of supremacy, than that of dictating like conquerors, and being obeyed like sovereigns? The misfortune was, that as in some cases ministry supposed facts which were untrue, for the sake of the consequences; on the present occasion salutary truths had been deemed fictitious, lest their adoption should have led to the pursuit of conciliatory measures. Acts which had been passed in direct opposition to the citizens of London, were frequently prefaced by a preamble, setting forth, "that in consideration of the solicitations of his Majesty's faithful citizens, it had been thought necessary to enact such and such particulars." Such was the recent case of the act for the Adelpi embankment, though the city of London struggled against it, as a violent proceeding of partiality to the invaders of their property, and of injustice to them. To put an end to the destructive ravages of civil war, by opening a door of reconciliation, ministry would have been forgiven, had they supposed even a non-existing case; yet, when authentic vouchers stared them in the face, they shunned conviction, by questioning the sincerity of those who sued for peace. The object of contention ought not now to be, whether we obtained the full completion of our desires; but whether, in the given situation of things, we could prudently neglect such grounds of conciliation, as were afforded in the petition. A wish to conciliate being once evinced, there were other plans which merited notice. Among those, he could not but give the preference to that of the Earl of Chatham. Nor was this influenced by any private motive; it would be vain and preposterous in him to insinuate that his connection with that noble Earl was any thing but a political one. The disparity of their years rendered private friendship unattainable. He considered the Earl of Chatham yet as the greatest ornament of the two Houses, in which he had shone with such unrivalled lustre; the most efficient servant of the crown, and while he had life in him, *the nerve of Great Britain*. A plan from such a man, that had been mentioned with approbation by one of our most antient and respectable colonies, Virginia; that contained the real substantial points, without subtlety or refinement, which this country ought to aim at, was, in his opinion, the most eligible. The proposals held forth in Lord North's motion, (divested of the insidious purpose under which they had been couched) would call for attention. To appropriate the trade-revenue for the support of a colonial establishment, was judicious. It interested the people in the prosecution of their trade, and it taught them to inspect into the application of their monies.

Other

Other plans had been framed by persons in the other House, devised with ingenuity and wisdom ; plans to the same purpose had been proposed without doors, which deserved attention ; for it must be narrow-minded bigotry, which could suppose sense confined to the walls of Parliament. But whenever ministry set about conciliation in earnest, they would find a very great difficulty in adjusting matters respecting the forces which were to remain in America. The late disputes had engendered violent animosities on both sides. Time only could abate the fervour of hatred, or meliorate dislike into esteem. The brown and red coats would not consort together hereafter, and not all the stratagems of government would make strife subside, and mutual amity prevail.

Talking, however, about plans of conciliation, when nothing conciliatory was meant, profited little. Ministry had predetermined on their measures, and Parliament was only assembled to give them the colour of legality. The doctrine now advanced by those in office was, " that the money should be furnished before the mode of expenditure was ascertained." If ministers were questioned, as to the measures they intended to pursue, the answer returned was, " that the King had concerted his measures, but they were not to be divulged." Thus the hereditary counsellors of the nation were left to debate without information, or yield assent to measures inimical to the interests of the kingdom. Thus much only could be gathered. A most pernicious system of warfare was meant to be pursued. An army of seventy thousand men was to be raised. Hanoverians had sailed for Gibraltar and Port-Mahon. The three regiments destined to Quebec had been happily driven back into Milford-haven : had they proceeded in their voyage, they never could have reached their destination, but would probably have fallen a sacrifice to the rigour of the climate and a tempestuous season. Had it been necessary to send troops, they ought not to have been embarked at a season which rendered it impossible for the transports to reach St. Lawrence whilst that river was navigable. The noble Lord at the head of the admiralty had not been bred to the sea, consequently his negative availed little against the testimonies of many gentleman in the marine department, who all concurred in declaring, " that the river St. Lawrence was rendered innavigable by the latter end of October, or the beginning of November."

With respect to the 20,000 Russians, his Lordship addressed the ministers in the following terms : There are powers
in

in Europe who will not suffer such a body of Russians to be transported to America. I speak from information. The ministers know what I mean. Some power has already interfered to stop the success of the Russian negociation. As for expecting neutrality from France, administration know that their conduct towards France, hath not been such as to entitle them to acquiescence from that quarter. The Landgrave of Hesse hath few men to spare. He passed the summer at Paris, which did not seem as if he was inclined to negotiate with us for a subsidy. The Elector of Hanover may have more men to spare than we have hitherto been taught to imagine.

But hiring foreign troops is not the only censurable measure. Such scandalous jobs have prevailed, as on repetition would put common honesty to the blush. Scarcely a single day has passed wherein I have not received several letters, some from private soldiers, others from officers, all of which have unfolded scenes of singular iniquity. The complaints against the fraudulent practices of the contractors and others who serve the army, are universal.

Nor are jobs barely sanctified; when they arise not naturally out of the business, an occasion is devised which will give rise to them. A most chimerical design was some time since on the tapis. It was proposed to send light-horse to America. I had the curiosity to enquire into the origin of so absurd a plan, and I was told there was a precedent for the measure; though I was not informed who found the precedent, yet I very well knew of what *profession* he was. I was referred to Lord Oxford's letter to Queen Anne. In that curious piece the noble Lord ascribes his misfortunes to a job of this nature. The sum of twenty thousand pounds was charged in an account for an ideal project of this kind. Lord Oxford exclaimed against the measure, but he was over-ruled by the chancellor, who roundly asserted, *that no man deserved to be a minister of this country, who could refuse to connive at the measure.* How far the four last years of Queen Anne's reign, bear an exact resemblance to the present æra, must be left to the determination of the impartial historian.

The noble Lord then called the attention of the House to a few matters of fact, which he said ought to prevail with ministry to discontinue their hostile measures, and conciliate while conciliation was left to their option. The army which was sent last year, and which it was then vainly boasted would look the Americans into submission, had not been able to look them in the face.

Attempts

Attempts had been made to enlist Irish Roman Catholics; ministry knew those attempts had proved unsuccessful. The Canadians had been excited to take a part in the quarrel; they had wisely declined to interfere in the business. Ministers knew this to be undeniably true. The Indians had been tampered with. A trial of skill had been made to let the savages, in the back settlements, loose on the provincial subjects of Great Britain. Barbarous as was the measure, and cowardly as was the attempt, it had failed of the wished for success. Savage Indians were not quite so callous to the feelings of humanity as British ministers. Equally fruitless had all attempts to divide the colonies hitherto proved. America felt her strength only in proportion to her union, and the little paltry policy to multiply jealousies and create divisions, by guarding the colonists against insidiousness, had strengthened instead of weakening the great cement of union. Whilst thus defeated on the continent, at home administration had found themselves incapable of raising the number of men required. Recruits had not offered with alacrity; officers had not made voluntary tenders of their services; they in general disrelished the business. Such reluctance in those who are to be instrumental in carrying on the measures, ought to operate with ministers; but if under all those disadvantages, war was still to be pursued, in his opinion the catastrophe would be dreadful; "the cord with America once broken, there was an end of all hold of the funds." The scheme of separating from America, and letting trade take its own course, was a wild and dangerous doctrine. He thought that ingenious speculations touching the inutility of custom-houses and regulations of trade, had better be left to our rivals. Our business was to adhere to the practical rules which time and experience had established. We were not, he said, in a state to make experiments. The trade of America is mortgaged to our stockholders. It would be dishonest to touch it. The ministers ought to know this; and tremble at whatever hazarded the loss of our American commerce.

His Lordship repeated, that if it was just to tax America, it was equally so to tax Ireland. That the latter was a much fitter object of taxation than the former; for if any position could be infallible, it was, that a colony could not be an object of revenue while it consumed our manufactures. This was the case of America, and not of Ireland. The quota from the latter was not adequate to its abilities, though the proportion was unequally distributed; the rich were spared, and the

the poor overburthened. The application of what was raised, so much to the oppression of the people, his Lordship thought, would make a becoming subject of parliamentary enquiry and correction. He declared, that he had lived long enough to know that he should eventually gain more by the prevalence of general justice, than any private emolument could possibly compensate. And concluded with saying, that if ministers still persisted in measures which could neither be justified on the principles of policy or of liberty, he could only quote an old adage, which he was sorry their conduct verified :

Quos Deus vult perdere prius dementat.

Ld. Lyttelton.

The Lord Lyttelton said, whatever insinuations might have been thrown out by the noble Duke who opened the debate, he should never be prevented from performing his duty. He was always of opinion, and should ever continue so, that it was rebellion in any part of the British empire to resist the supreme legislative authority of this country ; and in his opinion, the ministers who had stood up and exerted themselves so ably in support of it, had acted with perfect wisdom, and on the soundest principles of the constitution ; that he was so well convinced of the truth, indeed of the irresistible evidence of what he now advanced, that he could not attribute the opposition given to the just claims of the supreme power of the state, by several noble Lords in opposition, to any thing but a profest design to surrender the rights of the British Parliament, and transfer them to America. His Lordship animadverted on the evidence given that day at their Lordships bar, which, he said, he should not hesitate to call a partial evidence ; for with all the caution with which he guarded his expressions, he nevertheless betrayed, throughout the whole of his examination, the strongest indications of the grossest prejudice. He could even contradict him himself, upon a most respectable authority, a gentleman of his acquaintance, who possessed ten thousand acres of land in the province of New England alone, and who assured him, that the people of that province were full of a levelling, republican spirit, which would never be rooted out, till they felt and were compelled to bow under the full force and weight of constitutional government, to which it was notorious they were so averse ; that through the same channel he learned, they were no less hostile against monarchical government, than against the rights of the British Parliament. While in the prosecution of this enquiry, he learned what had been often asserted by his Majesty's ministers, that numbers

bers suffering under the tyranny and rebellious force of a faction, and the terrors of personal injuries or attacks on their property, had been compelled to unite in measures which their souls abhorred. For when he had proposed to this gentleman to be examined at their Lordships bar, he earnestly entreated to be excused; for the consequence of such an examination, as soon as an account of it reached New England, would be the total destruction of his property, and proscription of his person. This, among many other reasons, was one why he was induced to believe that Mr. Penn's evidence was partial; but supposing it had been otherwise, what was the purport of this day's motion, but that the acts of Parliament of Great Britain, its repeated addresses to the throne, his Majesty's own most solemn declarations, were to be superseded, in order to make way to the commands, not addresses, of the rebellious Americans? Those audacious rebels, who came and endeavoured to impose on his Majesty with insidious, traitorous, false expressions of loyalty to him, and of obedience to the British Parliament, while they in the same breath appeal to the people of Great Britain and Ireland, abuse the Parliament, deny their power, invite their fellow-subjects to make a common cause of it, and thus at once endeavour to involve every part of this great empire in one general scene of rebellion and bloodshed, in order to resist that very Parliament for which they pretend to profess such perfect obedience and submission—Are these the men you would treat with? Is this the cause the pretended friends of this country would endeavour to defend? or would you, by agreeing with this motion, relinquish your domination over those worst of rebels, and tamely submit to transfer the seat of empire from Great Britain to America.

The Duke of *Manchester* reprehended the last noble speaker ^{Duke of Manchester.} in very severe terms, for the improper liberties he had taken with such of their Lordships as differed in opinion from him, by charging them with a design to surrender the liberties of their country to America: such imputations, he affirmed, were aimed at the freedom of debate. They were indecent; they were unparliamentary; they deserved the marked displeasure of the House; and he would venture to affirm, they were, as applied on the present occasion, *not true*. He said, however, he was not surprized at some of the circumstances attending his Lordship's speech. They suggested occurrences, though not very unexpected, yet rather out of the common road; but however that might be, he would venture to assert, that his Lordship's conduct on the first day of the ses-

sion would not *shortly be forgotten*. His Grace besides entered into a general view of the question, and made several observations on the folly of involving this great empire in all the certain expence and horrors of a civil war, without any one single benefit or advantage, now the claim of taxation had been relinquished as totally impracticable.

Earl of *Effingham*. The Earl of *Effingham* observed on the scarcity of recruits, that from his own knowledge, there was a backwardness prevailed amongst the people to enlist in those regiments destined for America. The fact being admitted, the real disposition of the people was at once apparent, and in the judgment of the noble Lord, the prevalent inclination of the mass of the people, was a certain criterion, which should determine the conduct of ministers.

Lord *Cathcart*. The Lord *Cathcart* professed himself to be so totally unconnected with men, and so entirely unprejudiced as to measures, that could he conjecture the party most likely to promote the real welfare of the empire, he would join in support of their plans. Much had been said about peace, and the debilitated situation of Great Britain had been urged, to evince the necessity of a speedy accommodation. Admitting England to be in the worst plight imaginable, the noble Lord recollected a period when her distresses were equal. Although many Peers in the House might remember the rebellion in 1745, the noble speaker had at that time drawn his sword against the rebels. Their successes at Derby had thrown the kingdom into consternation: the whole interest of the country was assemblaged in one stake, and risked on the event of the battle of Culloden. Happily the casualties of war turned out favourable for England. But what contributed most to the welfare of the empire? The assistance so willingly afforded by all ranks of people. Ministry acquired vigour, in proportion as they were entrusted with power. A tone of firmness strengthened all their measures; and thus by one decisive stroke, England was snatched from destruction; the machinations of France were overturned, and the Pretender (a tool to France) was obliged to flee from that country, which he had been taught to consider as his patrimonial inheritance. The same efforts of the people, in support of government, would at this time prevail. Ministry should be assisted, not impeded in their measures.

Earl of *Sandwich*. The Earl of *Sandwich* defended Lord Lyttelton. He said whoever opposed the present system of measures pursued by administration respecting America, were in fact about to sur-
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render the right of Parliament to its rebellious subjects. He was the oldest Lord in that House, at least the Lord who had sat longest in it, and might of course be presumed to be pretty well acquainted with its orders and usages. He flattered himself he was, and could assure their Lordships, there was nothing in the words but what might be fully justified; there was nothing in them deserving the severe animadversion made on them by the noble Duke; for they were in every respect Parliamentary, and consonant to the modes of expression adopted in that House. When the noble Lords on that side tell the members of administration, that they are corrupt, incapable, or inattentive, that they have formed the very worst designs against the liberties and constitution of their country, we never on this side rise up to tell them that this is unparliamentary and indecent; no, we endeavour to convince them of their mistakes by defending ourselves and refuting their charges; and shall we in return be precluded from charging their Lordships, not with an act of criminality; for I contend that the words may otherwise be fairly and obviously explained. I may tell any noble Lord in this House, that he is surrendering the rights of Parliament, while I directly acquit him of any such intention. I shall never stand by and hear such a doctrine maintained, without endeavouring to detect its fallacy. I therefore think, so far from reprehension, the noble Lord deserves the greatest commendations and thanks, both from your Lordships and his country, for so ably defending and asserting the rights of the British Parliament, and the supreme legislative authority of the mother country. I think, I never before heard such a speech delivered by any body, and I am proud to testify my perfect approbation, by affirming, it was the finest ever delivered within these walls. His Lordship observed, that the noble Lords in opposition might be very sincere. They might imagine, that the only method to secure the power and grandeur of Great Britain, would be to render America independent; but he hoped their Lordships would excuse him from supposing that their zeal, however genuine, had hurried them such extraordinary lengths, or into such a scene of obstinate and invincible error; and permit him to attribute those extravagant doctrines to their true cause, a mere *struggle* for power. He was sorry to say, they had proved too successful in their endeavours, and by the unnatural encouragement and countenance they had given to the absurd monstrous claims of our rebellious subjects in America, had made what

first must have been the inevitable consequence of unanimity, now appear, if not hazardous, at least difficult, alarming, and expensive. Such a struggle, he said, might attain the main object for which it was set on foot; but he begged leave to remind their Lordships, that although they should prevail, and thereby supplant the present administration, they must take such a victory with all its consequences; they must at once render up the rights of this country into the hands of the colonists; they must disgrace and lower it in the eyes of all Europe; and, to compleat the whole, they must consent to the total ruin and destruction of its commerce. His Lordship next animadverted on the language of the noble Lords on the opposite side; that Great Britain, as the first step towards a conciliation, should determine on certain specific terms which she is willing to agree to. Let us, says his Lordship, see what this language means. I dare say there are many noble Lords in this House, who have served his Majesty abroad in the capacity of foreign ministers: I think I see several this instant myself. I believe the noble Duke who made the motion was among the number, and has of course some knowledge of the arts of negotiation: I shall therefore trust to their knowledge of what I am about to offer on this head. Supposing then, that Great Britain and America were two sovereign independent states, treating on equal terms: what is the mode that custom prescribes in such cases, but that certain preliminaries are first agreed on, and then a suspension of arms takes place? What is it that is contended for by the present motion, and by its supporters? Begin with a suspension, and then proceed to treat on preliminaries. This surely is a new mode of negotiation, such a mode I will venture to say, as never entered into the head of any man in the least acquainted with public business. I would therefore very seriously recommend it to the broachers of this species of treaty-making, either to peruse proper books before they again expose themselves on that subject, or procure some of their literary friends to publish something in its defence. Besides, let us apply this doctrine to the case immediately before us. America is not entirely prepared to resist our power; or if she be, she is still desirous of rendering herself stronger. Suspend your operations, and you furnish her with the very means of rising in her demands, if not of totally disclaiming all dependence whatever on this country. This I look upon to be the fair natural consequence of what has come recommended by the noble supporters of this motion. When I had the honour of being an instrument

instrument employed in restoring peace to Europe at Aix la Chapelle, in 1748, I own I acted in a very different manner from that now recommended. The first step I took, was to agree on certain preliminaries, previous to a suspension of arms. Those preliminaries were, that the Russians on our part, who were on their march to join us, should halt in the place that the earliest courier should be able to meet them. On the other hand, France was at the same instant obliged to disband thirty-seven thousand of her troops, a force supposed to be equal to our Russian auxiliaries. Again, we were to give up Louisburg, and they to withdraw their troops from four of the frontier towns, which they had in the course of the war acquired by their arms. I remember a circumstance which happened, then not inapplicable to the attempt made this day; that was, to grant the suspension, and permit them to retain the frontier towns till an actual account of Louisburg being delivered up was received. But I was too cautious, and by resisting the proposition in its first appearance, was fortunate enough to succeed, though the whole negotiation had like to have miscarried, for certain secret reasons which I am not permitted to disclose; and must have done so, if a peace had not, as it were, at length fallen from the clouds. The noble Earl who spoke early in the debate [Earl of Shelburne] has misinformed your Lordships; I will not say designedly, on three material points. He says, the river St. Lawrence is frozen up in the month of October. I contend, it is not; and that, on the authority of one of the ablest navigators this country ever bred, Sir Francis Drake himself not excepted. The person I mean is Captain Cook, who passed four winters in Canada, and assures me, that the river St. Lawrence is very seldom frozen up till the middle of December; and that the inconvenience of navigating that river, and the neighbouring seas, previous to the time I have mentioned, does not arise from the setting in of the frost, but the heavy gales from the north and north west, which are the monsoons of that part of the world, and set in early in the winter months. His Lordship is, I believe, equally mistaken as to the fact to which his reasoning on the above occasion was applied. Who informed his Lordship, that the regiments alluded to were destined for Quebec? His Lordship was mistaken; for I now assure him, they were not. As to the third allegation, that the army in America was to consist of 70,000 men, and that 20,000 of them were to be Russians, he [Earl of Sandwich] thought he knew something of what was intended; but he could solemnly affirm, it was the first
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he had heard of either arrangement. His Lordship however said, that he saw no reason why Russians should not be employed as auxiliaries now, as well as in the former war alluded to. If they were necessary then, as he was convinced they were, they might be so now; they might be so on any future occasion. The noble Duke who opened the debate, talked much of the expence of the service, &c. and insisted the very expence of carrying the twenty thousand Russians to America would amount to 500,000*l*. He said, he did not doubt it; but if they were to march by land, it would be much more expensive. He was sure that was the case, previous immediately to the treaty of Aix la Chapelle; and he insisted, that neither the expence or hiring of them could fairly or rationally be objected to; one being a necessary consequence of employing them; and if they should be employed, that again being a necessary consequence of the disobedient rebellious disposition of our subjects in America. He should first beg leave to obviate the force of one very plausible objection urged in debate by the Lords in opposition, relative to the difficulty of obtaining recruits. He said, he could not answer for what might happen without his own department, but he believed the facts he was going to state applied equally to both services. Since the orders for augmenting the navy had been issued, they had seamen coming to offer and enter themselves as fast as they could be well shipped; by the last accounts he received, they amounted, to between twenty and twenty-one thousand; and he made no doubt of his being able to compleat the whole of the establishment, which is 28,000 without pressing, but he did not mean to be understood to bind himself to any such promise. The other part of the service, the marines, which was recruited in pretty much the same manner with the marching regiments, he had been equally successful in, the returns being on an average of 80 men *per* week, some 120, and the lowest, which was the last, 45. So far, then, from the vulgar report, that the people in general were averse to the service, he was sure nothing could be more erroneous: they languished for it, and, were it necessary, he could produce numerous applications for an appointment on the American station, arising purely from a zeal to be instrumental in reducing those unnatural, ungrateful, and traitorous resisters of the mild government of their most gracious Sovereign, and the constitutional rights and supremacy of the mother country.

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The Lord *Wycombe*, [Earl of Shelburne.] As to the general charge of misinformation imputed to him by the noble Earl, he thought his Lordship would be one of the last who would venture to touch on that ground; because if he, and the noble Lords on the same side, were mistaken, it was the fault of the noble Earl, and his brethren in office, who compelled them to go to the other House to seek information, or pick it up wherever they could find it; by withholding from them every degree of parliamentary communication whatever. That 70,000 men were to be employed, was no idle, floating report; for it had originated with the first Lord of the treasury in the other House; and as to the river St. Lawrence being not frozen up till the middle of December, he would not be certain whether his general information did not include early in the month of November; stating it on that ground, therefore, he was certain that the person from whom he had his information would yield to none in point of experience and judgment; it would of course rest with their Lordships to determine which of the two accounts was most to be depended on. His Lordship was severe on the noble Earl, for thrusting the negotiations of the peace of Aix la Chapelle into the debate. He imagined his Lordship's modesty in one event, or his prudence in the other, would have prevented him. It was very tender ground to venture on, because whatever opinion his Lordship and his admirers might entertain on that curious business, there were many odd kind of people at this day, and a great majority of the nation at the time of the concluding that famous treaty, who thought the delivering so many British Peers hostages to ensure the faithful performance of a treaty, was at once a scandal to the nation, a violation of the dignity of the peerage, and a fixed stigma on the proposers of such a measure, which nothing could ever wipe off. His Lordship returned to a short consideration of the question, replied to the representation of the noble Lord, relative to the success that had been experienced in his Lordship's department, in procuring seamen and marines, which he attributed solely the decline of our trade and commerce, that had driven so many seamen out of employment, and as combating the information of the noble Lord; that the officers of the navy were not languishing for the service, he referred to the advertisements from the board of admiralty, desiring the officers to furnish the board with an account of their places of abode, and threatening, in case of refusal, to strike them off the list. On the whole, he said, that as the treaty of Aix la Chapelle, to borrow his Lordship's words, fell, so must the peace of this country, on the present melancholy and alarming occasion, fall from the clouds.

The Earl of *Sandwich* said, he should not observe on the word "scandalous" used by the noble Lord relative to the giving hostages, for the due performance of the treaty of Aix

Earl of
Shelburne.

Earl of
Sandwich.

la Chapelle, for he perceived the noble Lord who had used that very improper expression was already sorry for it; and so little did that transaction deserve to have the epithet scandalous applied to it, that it was the only action of his life from which he claimed the greatest merit; To which he begged leave to add, for farther confirmation, that there was a noble Lord now present, [Lord Cathart] who had been one of the hostages, and whose conduct through his whole life, both public and private, had to every one's knowledge, been so full of prudence and prosperity, that nothing would have prevailed upon him to have accepted a commission of that sort, without the strongest conviction in his own breast, that it was necessary to the essential interests of the nation, and consistent with her honour, as well as his own dignity as a peer. As to the matter started by the noble Lord, relative to the notices published by the admiralty board, they had no particular direction, but were merely drawn up in the usual office form; but as well as he could recollect, his Lordship was mistaken, in saying that a threat had been held out to the lieutenants, that they must expect to be struck off the half-pay list if they did not give in an account of the places of their residence. He was sure there could be no occasion for it, because out of 900 lieutenants on the list, in the time of profound tranquility, there are seldom more than 100 employed in actual service.

At half an hour past ten o'clock the House divided. For the motion 27, and 6 proxies; against it 60, and proxies 26. Adjourned to November 13.

November 13.

Private business. Adjourned to November 15.

November 15.

Duke of
Grafton.

The duke of Grafton said that he should move that an humble address be presented to his Majesty, humbly desiring, that his Majesty would give directions to the proper officer to lay before that House, an account of the number of forces serving in America, previous to the commencement of hostilities. His Grace explained the reasons upon which his intended motion was founded; and said, he thought such a motion was extremely proper and necessary at this particular time, when not only the nation at large was kept in such profound ignorance, but even the ancient hereditary council, his Majesty's great constitutional advisers, knew no more of what measures were intended to be pursued, than they did of what was transacting in any foreign cabinet in Europe. He reminded their Lordships of his sentiments on a former occasion, relative to the nature and extent of the information; that he did not want to know the detail, nor the particular means intended to be

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employed to give their measures success. He did not want, in short, cabinet but parliamentary information, such as was fit and safe for ministry to disclose, and necessary for Parliament to know, in order to direct them in their future deliberations. We know, says his Grace, that an army was voted last session; we know that an army, such as it was, commenced hostilities; we have heard, by common report, that considerable reinforcements have been sent since that period; we have been informed, through the same channel, that the troops met with a severe repulse in their first attempt to subdue the natives, and that the second, in which there was a kind of trial of skill and courage, was not in its consequences far short of an open defeat. We do not want to be told, that from that last action to this instant, the royal army has remained cooped up in the town of Boston, mouldering away by sickness and famine, and almost daily waiting for its fate, that of being destroyed or made prisoners by a force infinitely superior in point of numbers and strength. In such an alarming crisis, what are we to do? The noble Lords who have the direction of his Majesty's councils have ingenuously confessed, that they have been *deceived*. Apologies of various kinds have been made: explanations have followed those apologies. We have been told of ill-founded information, false reasonings, mistaken conclusions. Oblique censures have been thrown out upon the commanders both by sea and land. Now, my Lords, in such a state of darkness and uncertainty, such charges, such blunders, such mistakes, such imputed negligence or incapacity, or both, I would humbly submit to your Lordships judgment, whether the motion I am about to propose, be not a most necessary one; not as a retrospective one, implying the least degree of censure, but merely cautionary, in order to prevent a return of the same fatal evils. I repeat again, that I do not desire to know the number of men voted, with an intention of comparing the estimate with the returns; nor to enter into any enquiry directed to have the wrong information, by which ministers have confessed themselves deceived and misled, traced to its source: all I wish to know is, that general state of things, and those facts, which while it will warn us of the difficulties we have to encounter with, will at the same time point out the best means of obviating or surmounting them. That can never be effected so well, as by learning the true state of the force preparing against us; comparing it with our own abilities and immediate resources, and on the whole coming to such mature resolutions, respecting future measures, whether of coercion

or conciliation, as may be best suited to the dignity, national justice, and permanent interests of this country. His Grace concluded with making this motion; That an humble address be presented to his Majesty, beseeching him that he would give directions to the proper officers to lay before the House an estimate of the number of forces in America at the commencement of hostilities in the month of April, with their several stations and distributions, in order to lay a ground-work for such advice as that House, impelled by a sense of duty, might think fit to submit to his Majesty's consideration.

Earl Gower. Earl Gower. I rise thus early to give a direct negative to the motion made by the noble Duke; because his Grace has manifestly proceeded on a mistake. He supposes this country, at least I am led to conclude so by his reasoning, in a state of absolute tranquility, whereas it is confessedly in a state of war; disclosing, therefore, our plans of military operations, might be productive of the very worst consequences. I have it from an officer of eminence on the spot, that whatever measures are determined on at this side the water, are known in the rebel camp much earlier than any account of them reaches the King's army. What then will be the consequence? But that whatever information may be brought to light by this motion, and several others which I dare say will follow, if it should meet with your Lordships approbation, the rebels will be apprised of. The plans we intend to pursue will thereby be made known, and the provincials furnished with the readier means of defeating them. Besides, I cannot see what possible good this motion can answer in any light, even in the strictest conformity to the sentiments the noble Duke declares to profess, unless he makes it a leading question to a string of propositions of a similar nature, tending to lay open the species of information which, as one of his Majesty's ministers, I look upon myself bound for the reasons before assigned, most strenuously to withhold. But, my Lords, if I have very cogent reasons for opposing the motion singly on the ground I have now stated, I have still much stronger motives for opposing it on principle; I mean the dangerous precedent it might establish in the further progress of this important business, that of the legislative forcing itself, and breaking in on the executive power; a mode of conducting business, which if it should ever prevail, will of course totally obstruct the measures of government. On the other hand, if administration is supported by the confidence of Parliament, by a proper dependence and reliance that the powers entrusted to them will be exerted with suitable ability and fidelity, I make no doubt, from

from the present disposition of a great number of people in that country, who want only to be protected to openly avow themselves the friends of Great Britain, that this arduous affair will be finally brought to a fair, happy, and honourable issue.

The Earl of *Dartmouth*, against the motion ; said it was Earl of the most extraordinary proposition he ever heard ; that now, *Dartmouth*, when it could be no longer doubted that we were in an actual state of war, to have the strength, number, and destination of our troops laid open to the Americans, for this would certainly be the case, was such an idea as he could not have thought possible for any noble Lord in that House so much as to conceive. He confirmed the assertions of the noble Earl who spoke last, that every fact or information called forth by this motion, would be instantly transmitted to America, and would consequently teach them to rise in their demands on one hand, or cause them to take such measures of resistance as would be most effectual towards defeating whatever might be determined on in this country. He observed, if the Duke's motion was intended to reach no further than it professed, it might be answered with great safety, and with very little trouble. The number of effective men in each regiment was well known ; the number of battalions was seventeen ; there were upwards of 300 sick in the hospitals, and about 800 non-effective, which two last items deducted out of the returns, supposing them to be complete, would give an exact amount of the troops previous to the commencement of hostilities. There were some detachments out at the time, but they were not very considerable ; so that the whole of the force at the time the noble Duke's motion pointed to, might be very easily ascertained.

The Lord *Camden*. The noble Earl in the blue ribbon, *Lord Camden*, [Earl Gower] and the other noble Earl, very lately a secretary of state, [Earl of *Dartmouth*] seem to oppose the present motion on two grounds ; first, as it may be the means of giving intelligence to the provincials relative to the state, condition, and number of our troops in America ; and secondly, as this motion, should it receive your Lordships approbation, may be productive of several others directed to the same object. I heartily approve of their Lordships caution and foresight ; for I believe, though I have no reason to know it, as the noble Duke has not communicated his intentions to me, that their Lordships fears are well founded. I dare say the noble Duke, should he carry his first point, does not mean to rest his enquiry there, and proceed no further. I rather think he will

will go on: I am sure the present situation of affairs, both in England and America, requires that he should. The noble Lords have talked of the accounts of measures agreed on in this country, being so early known in the rebel camp. I should be glad to know what species of information their Lordships allude to. They will not say it is parliamentary information, because no rebel camp existed at the time we last sat here, at least, so as to reach it any considerable time after Parliament rose. If it be a cabinet information, that is a matter we are, it seems, to have nothing to do with. But there is something extremely curious in another part of this argument; the noble Lords in office tell you, that by giving an account of the number of troops in Boston and its neighbourhood, previous to the affair at Lexington, we shall furnish the rebels with intelligence of a very dangerous nature. What! Surely not, if the rebel camp be so very well informed; much less so, if the enquiry goes only to a point, I suppose well known to every man this instant within the province of Massachusetts Bay. While I am up, my Lords, you will give me leave to say a few words to the general question. The noble Earl, so lately one of his Majesty's secretaries of state, has informed us, that we are in a state of war, that secrecy is of course necessary. I deny that we are. Peace is still within our power; nay, we may command it. A suspension of arms on our part, if adopted in time, will secure it for us; and I may add, on our own terms. From which it is plain, as we have been the original aggressors in this business, if we obstinately persist, we are fairly answerable for all the consequences. I again repeat, what I often urged before, that I was against this unnatural war from the beginning. I was equally against every measure from the instant the first tax was proposed to this minute. When, therefore, it is insisted, that we aim only to defend and enforce our own rights, I positively deny it. I contend, that America has been driven, by cruel necessity, to defend her rights from the united attacks of violence, oppression, and injustice. I contend, that America has been indisputably aggrieved. Perhaps, as a domineering Englishman, wishing to enjoy the ideal benefit of such a claim, I might urge it with earnestness, and endeavour to carry my point; but if, on the other hand, I resided in America, that I felt or was to feel the effects of such manifest injustice, I certainly should resist the attempt with that degree of ardour so daring a violation of what should be held dearer than life itself, ought to enkindle in the breast of every freeman. Here, my Lords, I speak as
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an American, or as one residing in America, who finding himself deprived of his liberty, and his property attacked, would resist, and with all his might repel the aggressor. On the other hand, as living in this country, and subject to the laws of it, I always have, and I hope always shall, pay a proper obedience to them. But, my Lords, pursuing the ideas of a native American, or a person residing in that country, what must be the sense they feel of the repeated injuries that have for a succession of years past been heaped on them?--- To have their property, under the idea of asserting a right to tax them, voted away by one act of Parliament, and their charters, under an idea of the supreme authority of the British legislature, swept away by another vote of Parliament. Thus depriving them, or rather claiming a right to dispose of every single shilling they are worth, without one of them being represented by the persons pretending to exercise this right; and thus stripping them of their natural rights, growing out of the constitution, confirmed by charter, and recognized by every branch of the legislature, without examination, or even without hearing. I will fairly appeal to your Lordships, if there be one among you, could submit to such intolerable oppressions; nay further, if you would not all unite as one man, were you in such a situation, to oppose the execution of so lawless and unjust a power. I do not mean, my Lords, to go through the whole of this business. I reserve that for some future day: I dare say I shall have many opportunities, and I pledge myself to your Lordships, on that day, that I will prove Great Britain has been the aggressor; that America has only acted on the defensive, and that were I an American, and wanted a proper sense of the injuries attempted to be exercised towards me, that I should only think them justifiable, so far as I wanted spirit to resist, and was conscious to myself, that I was undeserving the enjoyment of any privilege, that I was mean, cowardly, or abject enough to tamely relinquish.

Lord *Lyttelton*, after objecting to the motion, on the ground that it would be the means of conveying information to the rebels, remarked with some severity on the conduct of the noble and learned Lord who spoke last. But if the present motion be objectionable, on the ground it now stands, unconnected with any other, how much more strongly ought you to resist it, when the learned Lord informs you, that it is to be followed by several more of a similar nature. This being clearly the real intention of the noble Duke who made the motion, I trust, if any doubt remained relative to the

Lord *Lyttelton*.

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confined view of the question, as it simply stands before your Lordships, that this information will be a sufficient motive with your Lordships to reject this in the first instance. The noble and learned Lord, digressing from the question immediately before us, entered into a general view of matters of a much more important and weighty nature. His Lordship tells you, that Parliament were the first aggressors; that the Americans are indisputably aggrieved. Is this, my Lords, a language fit to be endured within these walls? Are you to suffer the acts of the British legislature, declared by the King, Lords, and Commons, to be branded with almost every opprobrious term that can possibly be conceived? The noble and learned Lord tells you, that the Parliament has acted unjustly, oppressively, nay tyrannically; that the Americans are justified in their resistance; that if he was an American, or resided there, he would be one of the first to resist. I will venture to affirm to your Lordships, that if he was there, he could not effect the thousandth part of the mischief, we may fairly presume, what he has said this day will produce; for you may rest assured, that there is not a syllable of his speech that will not get into the news-papers, and consequently make its way to America. They will in those accounts find the speech of a most learned and eminent lawyer, famed in his profession, confirming them in every sentiment of rebellion and resistance to the authority of the mother-country. They will find the legislature of Great Britain charged with tyranny, oppression, and usurpation. They will find themselves branded as cowards, poltroons, and tame, abject slaves, unworthy of the liberties they enjoy, if they do not resist. The noble and learned Lord, while he sets up to be so strong an advocate for liberty, says something I do not well comprehend, unless it be with a view still the more completely to blacken and vilify this country. His Lordship tells you, as an overbearing and domineering Englishman, he should like to triumph and trample on the liberties of America. I do not pretend to exactly say what his native impulses may be in that respect; but I will venture to assert, that he thinks very differently from the majority of this House, and the majority of this nation; neither of which want to invade the rights of America, much less trample on its liberties. The noble Lord says, in the same breath, that, as an American, he would resist such an invasion. But as it is not the intention of Great Britain to do the one, so I trust she will never desist, till she obtains a full and complete obedience and submission to the exercise of her constitutional power. On a former occasion

having

having only said that those who were for supporting the unnatural claims of America, were in fact surrendering the rights of the British Parliament into the hands of our rebellious subjects; I remember I was called to order, and severely reprehended by one or two noble Lords on the other side. In my opinion I was substantially right; but allowing it to be otherwise, how much more blame-worthy is it for the noble Lord to rise and condemn acts of Parliament, the laws of the land, and the constitutional sense of the whole nation? I trust, the noble and learned Lord already sees the impropriety of his conduct, how very unparliamentary it is, how disrespectful to the body of which he is a member, how injurious to Parliament at large; but above all, that he will think of the consequence, and in time retract his words; otherwise he may be assured, those exceptional, those mischievous expressions, will shortly be echoed through all the papers, and be wafted over the Atlantic to rebellious America by the first conveyance. Should the noble and learned Lord refuse to retract, I shall be in the judgment of your Lordships, whether or not, to avoid the consequence I have pointed out, he should not be obliged to explain himself, according to the usual and established mode of Parliamentary proceeding.

Lord Viscount *Dudley*. I think the noble and learned Lord ^{Lord Viscount} *Dudley* has transgressed every rule of debate I ever remember to have seen observed in this House. Not satisfied with condemning the measures of administration in general, he tells you very plainly, that America has been oppressed, and that Great Britain are the aggressors. He contends that resistance is justifiable, and that our ultimate views are views of tyranny and despotism. This, I confess, is speaking pretty plainly; but I presume his Lordship does not mean by such palpable misrepresentations, to persuade us to adopt his opinions. On the contrary, I am satisfied, that America, in this contest, only aims at independence: and that every concession we may be induced to make, will only lay a foundation for new claims. In the course of this business I have observed, that much stress has been laid by the noble Lords on the other side of the House, that should our present disputes with America be spun out to any length, our manufactures must be ruined. Now, my Lords, I must inform you of two facts: one is, if that were the case, no person would feel the effects sooner than myself; the other is, that nothing of the kind has been hitherto felt, at least in my neighbourhood, which is deeply concerned in the American trade. I live in the midst of a great manufacturing country, the trade of which depends a great deal

deal upon their intercourse with America ; and yet, I can say, from the best information I have been able to collect, that no decline or stagnation in any of the great manufactures has been yet felt. It is true, a want of employment among the nailors may possibly be a consequence of our present disputes with America ; but if it should, I trust that administration will devise some mode of alleviating the miseries of men manifestly suffering in the cause of their country.

Duke of
Richmond.

The Duke of *Richmond*. The noble Lord who spoke last has at length confessed that the effects of our American war begin to be already felt, particularly among the nailors. It is not many days since the same noble Lord assured us with great confidence, that the manufactures in his neighbourhood were in a most flourishing thriving state; that the people were fully employed ; and that new channels for disposing of the commodities formerly sent to America were happily opened. What does his Lordship now tell you ? that a stagnation at least in one branch has commenced, and very modestly desires administration to devise some means of compensating the sufferers. This, I must own, has to me a very odd sound. We have already voted four shillings in the pound ; our manufactures are on the decline, that must of course create a deficiency in the funds ; the manufacturers will want employment, and something must be done for them. I think your Lordships ought to consider this matter in a very serious light before you proceed a step further. You should view the measures at large, and fairly conclude on the consequences taken together. The noble Earl lately in office (Lord Dartmouth) told us the last day we met here, that we were to have peace with America ; that it was the fixed resolution of administration to adopt conciliatory measures. Now, what does he tell your Lordships ? That we are in a state of war ; that secrecy is the life and essence of such a state ; that we should studiously conceal what every body knows in one instance, and withhold secrets from this House long since grown stale in the rebel camp ? The principle which seems to direct the policy of the noble Lord, is no less worthy of animadversion. He has no information himself, his friends have none, and he will hear none. In fact, his Lordship is as careful to keep every degree of information from this House, as from the generals Lee, Putnam, or Washington ; for when Mr. Penn delivered him the petition, he did not think proper to ask him a single question ; when Mr. Penn was on the last day examined at your Lordships bar, his Lordship shewed a similar aversion to any thing which might wear the most distant appearance

pearance of looking for information. While I am up, and speaking on the subject of that day's examination, I cannot avoid saying a few words on the conduct of one or two noble Lords: From the time that the House agreed to examine Mr. Penn, till the day he was examined, I determined to have no sort of communication with him; yet, from what had fallen from the noble Earl in the blue ribbon, and the noble Earl lately in office, I wished to avoid asking that gentleman any questions which might probably be disagreeable, or embarrass him. Accordingly, when I came into the House, having previously drawn up a list of such questions as I thought proper to put to him, I went below the bar and delivered him the paper, desiring him to object to such as he thought proper. He kept the paper a few minutes, and returned it to me with an assurance, that the list contained not a single question he was not ready to answer. In this transaction, my Lords, I flattered myself that I had acted with all imaginable caution and candour. Yet what was the consequence; but that the noble Earl who presides at the head of the admiralty, charged me with previously consulting the witness, with an intention, I presume, to fabricate a particular kind of evidence on purpose to mislead this House. Such language was, in my opinion, extremely unparliamentary, and deserving of your Lordships discountenance and disapprobation: yet, after I had explained the matter nearly in the same words I do now, what shall we say to the unjustifiable conduct of another noble Lord [Lord Lyttelton] who again repeated the same charge, mixed with a direct imputation, that the witness gave a partial testimony? But this is the noble Lord, my Lords, who stands up so warmly for parliamentary order and the decorum of debate, and so severely condemns the noble and learned Lord on my right hand for being guilty of what he calls a violation of it. It is true, I always hear that noble Lord with infinite pleasure and delight; he speaks so finely, so harmoniously, his elocution is so charming, and his action so just and striking, that he affords me no small degree of entertainment, scarcely Mr. Garrick himself more; yet before the noble Lord is so very ready to censure others in respect of transgressions, such as he now attributes to the learned and noble Lord, he should recollect how ready he is himself to offend in a similar manner. His Lordship has laboured greatly to reconcile the learned Lord's expressions to each other. Your Lordships, I dare say, are already perfectly satisfied of his ability in that way. He has a knack of reconciling very strange things indeed! I hope he will be able to reconcile his conduct on the first day of the

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session, and the part he has since taken. I need not hope it, I may rest assured that his Lordship is able to reconcile greater difficulties and contradictions than even that itself. His Lordship will, however, excuse me, if I think his ingenuity would be better employed in immediate relation to himself, than about any matter respecting the noble and learned Lord. On the whole, my Lords, I cannot help observing, that the conduct of administration has been very extraordinary. The noble Earl in the blue ribbon has told you he has been deceived. The noble Earl at the head of the admiralty has told you that he deceived your Lordships relative to the naval arrangements of last year; lest if he had made the necessary demands, you would have withheld your support. A noble Lord in the other House pledged himself, that an army of 10,000 men would look America into submission. The same noble Lord has again undertaken to perform the same task with 25,000 men. What then in such a state of imposition, confessed weakness, and contradiction, has your Lordships to direct you? Why the noble Earl in the blue ribbon desires you, very gravely, to place an implicit confidence in administration. He tells you, that no miscarriage can happen, if you will trust him and his brethren in office. This is speaking pretty confidently, and with no small degree of hazard. I presume his Lordship is not ignorant of the true purport of such language in this House; it is no less than fairly engaging in measures, the consequences of which the ministers heads are to be answerable for. If, therefore, the present motion should be over-ruled, and that this implicit confidence in ministers should be deemed advisable, I hope that the doctrine will be accepted of in all its parts; trust the executive power, and let the executive power be eventually responsible to the legislative for all the consequences.

Earl of

Dartmouth.

The Earl of *Dartmouth*. I am much obliged to any noble Lord who rises to remind me of any thing I have said in a former debate: I am doubly so to the noble Duke who spoke last, for assisting my memory to words so justly expressive of my real sentiments. I said it was the intention, the most earnest wish of administration, to adopt measures of conciliation, nay of concession. I avow myself still of the same opinion. I affirmed early in this debate, that both countries are in a state of war; that secrecy respecting our operations, and the state of our troops, was become necessary. I think in all this there is nothing versatile nor contradictory. If absolute war were finally agreed on, I presume his Grace would not contend that peace would not be the ultimate object. How then

then can the noble Duke conclude, from my saying that this country is in a state of war, that consequently the views of administration were directed to the conquest of America; when in the same breath I added, that the armaments, both by sea and land, were made chiefly with an intention of protecting such in America as continue well affected to the mother country, and restoring them to the liberty of acting conformably to their own sentiments? I repeat again, that I have no sort of disinclination to gratify the curiosity of the noble Duke who made the motion, were the information to be confined to the object barely of the present question; but understanding from the learned and noble Lord who spoke early in the debate, that other information of the same nature will be desired, I must for that reason give it my hearty negative.

Lord Viscount *Dudley*. I do not retract my former assertion, that the manufactures in my neighbourhood were never in a more flourishing condition: I am sure they never were; and one good reason may be assigned, why the American trade in general should have been brisker for some time past than usual, because the people in America, foreseeing the consequences of the non-importation and non-exportation agreement, provided accordingly, which caused an increased demand. I have made it my business to enquire, and from the most authentic information have no doubt of the truth of what I affirm. The noble Duke has therefore mistaken my meaning. Nay further, the very nail-making business has not yet felt any stagnation, at least the people employed in that business have had yet no reason to complain. But, my Lords, saying this, I am to inform your Lordships, that that may not much longer continue to be the case; for I believe the fact truly is, that the great nail manufacturers, long since the demand has slackened, have still continued to employ their men; the business, as respecting the journeymen, has of course been equally brisk. But, my Lords, there may be a time when the inconvenience, or rather the impracticability of such a conduct may arrive; I mean when the great manufacturers can no longer, with justice to themselves, accumulate a commodity for which they have no vent. It is to guard against the consequence such a period would produce, I now say, that administration would do well to interpose, and endeavour to find the journeymen employment.

The Lord *Camden*. The noble Lord who so severely animadverted on my conduct, respecting certain opinions maintained by me in the course of my speech, having offered so

Lord Viscount *Dudley*.

Lord *Camden*.

little immediately directed to combat the justice and truth of those opinions, I might well stand excused in your Lordships judgment, as well as my own, in not rising to reply to them, if I were not doubtful it might be construed into pusillanimity, or a conviction that I had acted improperly, and was resolved to submit to his Lordship's censure in silence. When, therefore, his Lordship makes a general charge of inconsistency against me, I tell him that I think I am perfectly consistent; that I might assert one thing as an Englishman, and resist it as an American. The noble Lord says, it is indecent and unparliamentary to arraign an act of Parliament, unless it be on a motion for its repeal. I never knew any such a rule of debate observed in either House of Parliament. If there be, I contend that it is essentially destructive of the freedom of debate, and shall never be observed by me, till I am fairly tied up by a vote of your Lordships to that purpose. But if the rule were a good one, only see how it would operate in the present case—the question substantially before us is, whether or not the acts of the British Parliament respecting America be founded in justice, and be consonant to the principles of this constitution. Frame ten, or ten thousand motions, they will all at last come to this question. What then is the purport of the noble Lord's argument? I allow the true question relates solely to the justice and wisdom of those acts; you may say any thing else you please, but on them you must be silent. I appeal to your Lordships, if this be not the natural and obvious meaning of the censure attempted to be passed on my words, and the restraint that would be the consequence should your Lordships think I deserved it.—No, my Lords, till I am fairly precluded from exercising my right, as a Peer of this House, of declaring my sentiments openly, of discussing every subject submitted to my consideration with freedom, I shall never be prevented from performing my duty by any threats, however warmly and eagerly supported, or secretly suggested. I do assure your Lordships, that I am heartily tired of the ineffective struggle I am engaged in. I would thank any of your Lordships who should procure a vote to be passed for silencing me. It would be a favour more grateful than any other it would be in the power of your Lordships to bestow; but until that vote has received your Lordships sanction, I must still think, and shall uniformly continue to assert, that Great Britain was the first aggressor; that most, if not all of the acts, were founded and framed in oppression; and that if I were an American, I should resist to the last such manifest exertions of tyranny, violence, and injustice.

injustice. When I arraign those acts, I would willingly draw a line, distinguishing these which have created the present troubles from those that preceded them; because the latter, I am authorized to say, did not directly operate, though undoubtedly they laid the foundation for the former. Saying this, however, I contend that there has not been a single step nor consequence throughout this whole business, that did not originate from the principle of laying taxes on America, for the purpose of raising a revenue. That, my Lords, is the greatest grievance, the source and parent of every other. But coming more immediately to the matter I rose to explain: Tea was sent to Boston under the idea, as was pretended, of enforcing a commercial regulation. The tea was destroyed by a number of men in disguise, assisted by a mad rabble. An act, at the time disavowed by the whole province in their legislative and constitutional capacity; and never, from that day to this, offered to be justified, either in writing or discourse. How did Great Britain act on this occasion? Without making any demand of reparation; without making a single enquiry, or calling for a single evidence to prove the delinquency of a single inhabitant of the province of Massachusetts Bay, you shut up its port, you deprived thousands of the means of living, of the fruits of their honest industry, though you were convinced they disapproved of the act as much as yourselves. Besides you robbed people of their property, by rendering their landed estates, their houses, wharfs, &c. useless. If this was not injustice, the most wanton in its nature, and the most aggravated in its circumstances, that was ever exercised in a free, nay in a despotic country, I am sure I know not what tyranny or despotism is. Such was the complexion of your next act, that of stripping the province of its charter, without previously proving that the powers delegated by it were abused and legally forfeited; in fine, without examination or enquiry of any kind whatever. And lastly, that last inhuman act of endeavouring to starve half a million people into compliance, and thereby involving the guilty and innocent in one common punishment. These, my Lords, are some of the few reasons why I think that Great Britain has been the aggressor; that she has been cruel, oppressive, unjust and unrelenting; and these, my Lords, are the motives which would induce me, were I an American, to resist them as the most open and dangerous attacks upon my liberty, property, and, in short, every thing I held dear as a freeman.

The

Lord Mansfield.

The Lord Mansfield. My Lords, I did not intend to speak to the question, for you will perceive by my voice that I am not well. If, therefore, I should not express myself so clearly as I could wish, I will trust to your indulgence. The question before your Lordships is simply, whether it will be proper to give the papers now called for. If the giving them to the House will be productive of no inconvenience, and give necessary information, I think the motion should be complied with. On the other hand, if the motion will answer no one good purpose, and may possibly disclose matter proper to be kept secret, I think the desired information ought to be withheld. These, my Lords, are the objects of the motion; but I perceive the debate has taken a very different turn. The question at large has forced itself into discussion, and I foresee ever will, till it is decided one way or the other. The bad consequences of planting northern colonies were early predicted. Sir Josiah Child foretold, before the Revolution, that they would, in the end, prove our rivals in power, commerce, and manufactures. Davenant adopted the same ideas, foresaw what has since happened: he foresaw that whenever America found herself of sufficient strength to contend with the mother country, she would endeavour to form herself into a separate and independent state. This has been the constant object of New England, almost from her earliest infancy. Their struggles in the reign of King William, compelled that prince to recall their former charter, and give them a new one; and towards the conclusion of his reign, to get an act passed, that no law enacted in the colonies should be valid, if contrary to any law at the time existing in England. Those disputes scarce subsided from that day to this. I remember in the year 1733, Mr. Talbot (afterwards chancellor) proposed a set of resolutions in the House of Commons, in which the nature of the disputes then subsisting were directly pointed at, and similar doctrines to those maintained at present by the British Parliament fully asserted. So matters continued till the year 1756, when a new administration was formed, brought about by a coalition, in effecting which I had the honour of being an instrument. I remember at that time the ministry were extremely unwilling to engage in a war on account of America; and I believe would have avoided it, if some circumstances had not intervened, which gave another turn to the disputes then subsisting. Not that I would be understood to say, that America was not the true cause of the war then undertaken, I am certain it was. A vulgar opinion prevailed, that we armed in defence of Hanover; the contrary was certainly

tainly the case. Whatever form the war might have afterwards assumed, the preservation of America was what originally brought us into it. At the conclusion of the peace, the inconveniences which have since arisen were then partly foreseen ; but they were, however, balanced with a suitable degree of wisdom against those which might have been produced by embracing the other part of the alternative. If Canada was restored to France, it would have laid a foundation for future disputes, and future wars ; it would have been the source of endless contention between both nations. This was the precise state of the case, previous to the laying on the stamp act. An idea then prevailed, that America, from her increased power and ability to pay, should contribute to alleviate the burdens she had been instrumental in loading this country with. I shall not pretend to say, how proper such a measure might have been. As things have since turned out, I am sorry the stamp act ever passed ; however, no person at the time so much as offered to say a word against it. The next year the declaratory law was passed, without any opposition. In a year after, the noble and learned lord, who spoke last, being then at the head of his Majesty's counsels, and presiding on the woolstack, was present when the port-duties were laid on, and never said a word against them. I am sorry they were ever laid on. Much about the same time, the act for extending the act of Henry the Eighth, relative to the trial of persons for offences committed out of the realm, was passed ; the same learned Lord retained his former situation, and the noble Duke, who made the motion this day, then presiding at the head of the Treasury, were both in the cabinet, and not a word was said then against the measure. I am sorry that bill was passed. And, lastly, the very bill the learned Lord hath this day bestowed so many hard names upon, relative to stopping up the port of Boston, was passed without any manner of opposition. Of the succeeding acts I shall say nothing, but that if the others were justifiable, I think the latter were equally so. I do not pretend to state the matter accurately, but as well as my memory is able to assist me ; I do not think that America complains of particular injuries, so much as she does of the violation of her rights. If I do not mistake, in one place, the congress sum up the whole of their grievances in the passage of the declaratory act, which asserts the supremacy of Great Britain, or the power of making laws for America in all cases whatsoever. That is the true bone of contention. They positively deny the right, not the mode of exercising it. They would allow the King of Great Britain

tain a nominal sovereignty over them, but nothing else. They would throw off the dependency on the crown of Great Britain, but not on the person of the King, whom they would render a cypher. In fine, they would stand in relation to Great Britain as Hanover now stands; or, more properly speaking, as Scotland stood towards England, previous to the treaty of Union. His Lordship then entered into a variety of detailed reasonings, to shew that the views of America were directed to independence; that Great Britain could not concede without relinquishing the whole, which he supposed was not intended; and that consequently, any measure of conciliation, in the present situation of affairs, and the declared intentions of America, would answer no end, but furnishing her with grounds to erect new claims on, or to hold out terms of pretended obedience and submission.

Earl of
Shelburne.

Lord *Wycombe* [Earl of Shelburne] I do not pretend, particularly at this late hour, to follow the noble and learned Lord over the very wide circuit he has taken. So much, however, I can affirm, that were I as well satisfied, as his Lordship seems to be, that America aims ultimately at independence, I should be one of the first in this House, who would be for adopting the most firm and decisive measures; not having yet brought myself to approve of the very extraordinary proposition, of breaking off all political or commercial connection with that country. His Lordship has stated the case of Ireland, as applying to the subject of the present unhappy disputes, and was pleased to allude to something which dropped from me the last night on that subject, inferring from thence, that as Ireland is a subordinate kingdom, dependent on the crown of Great Britain, the true dependence of America is thereby clearly marked out, as distinguished from those claims of America, which maintain that their obedience and submission reach no farther than to the mere person of the prince upon the throne. Taking the premises to be true, I perfectly coincide with his Lordship; for I always have, and ever shall think, that both Ireland and America are subordinate to this country; but I shall likewise retain my former opinion, that they have rights, the free and unimpaired exercise of which should be preserved inviolate. The principal, the fundamental right, is that of granting their own money. The Irish have always exercised that right uninterrupted, so has America till very lately; and that this invaluable privilege is going to be wrested from them, I take to be the true grievance; remove that away, and every thing, I dare say, will soon return into its former channel. I do not here promise to meet
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the ideas of every person on the other side of the Atlantic indiscriminately. There may be some factious, ambitious, turbulent spirits there. I would be understood to speak here of the prevailing governing dispositions of both countries. There may, on the other hand, be many people in this country, so mistaken as to desire a revenue; but what I mean is, that if the claim of taxation was fairly relinquished, without reservation, I am confident the supremacy of the British Parliament would be acknowledged and acquiesced in by America, and peace between both countries be once more happily restored.

The noble and learned Lord speaks something concerning a coalition, or union of opinion on some leading points. I find myself in an awkward situation. I do not, for my part, wish to become a member of administration. I am an independent man, and mean to continue so; but if any general plan should be adopted, I should in the first instance, put in my claim to restrain the power and mode of exercising the constitutional plan of royal requisition, so as to prevent the crown, or the ministers for the time being, from employing it to purposes of finance and patronage, which might tend to throw still more weight and influence into the hands of government, already grown much too formidable and powerful. The fatal effects of this increased strength in the crown, has been severely felt in another kingdom. It was to guard against it, in some measure, that the act passed in the reign of king William, for limiting the army serving in Ireland to 12,000 men. Though the army, till very lately, was continued at that number, other means were devised to employ the power of the crown in that country, to purposes operating nearer home. It is therefore on the hint now thrown out by the learned and noble Lord, that I lay in my claim thus early to avert, or rather to totally provide preventatives against, the mischiefs to be dreaded, from increasing the power of the crown, on the footing of any plan of conciliation which may be proposed and agreed on ultimately between Great-Britain and America. The noble and learned Lord will, I trust, excuse me, when I set him right relative to a fact, which he has mis-stated or forgot. His Lordship says, the Boston port-bill passed without any opposition. I beg leave to remind his Lordship, that it was warmly opposed; that I, among several other Lords who entertained similar sentiments, testified our disapprobation in the warmest and most decisive terms; nor shall I be ever reconciled to that bill, nor the char-

ter bill, that accompanied it. They were both founded in manifest injustice, to punish men unheard in one instance, and to create a forfeiture, without any delinquency proved in the other; were such acts as must continue to disgrace our statute books, till they are repealed.

I trust your Lordships will indulge me, with a word or two to the question. The noble Earl in the blue ribbon, who spoke early in the debate, and the noble Lord lately in office, speak as if such information as that now desired, was not only improper to be given, but even indecent and unparliamentary to be asked. I protest to your Lordships, I never heard till this night so extraordinary an idea maintained. In the first place, their arguments prove the very reverse: they prove, that all secrecy will be nugatory, for that the rebels are better informed than the King's troops: But taking the fact to be directly otherwise, what would their reasoning amount to? Keep every thing a profound secret, if any thing, at least any thing material, transpires, our schemes will be defeated. Now, for my part, I by no means approve of such a mode of proceeding, even if engaged in a foreign war with our natural and inveterate enemies. By the accounts transmitted down to us, this was not the conduct pursued by the immortal Marlborough. He always came over in the winter; and instead of wishing to conceal from his enemies, he generally stated minutely the measures pursued during the preceding campaign; the operations, and their actual or probable effects. His Grace did not even rest contented here, for he never failed to sketch the great outline of the succeeding campaign, and the number of troops it would be necessary to bring into the field. He was generally as good as his word, whatever he promised he punctually performed; and never in the course of ten successive campaigns, did he once come to Parliament, to tell he had been deceived; or that he had suffered in the least by his communications to Parliament.

Duke of
Richmond.

The Duke of *Richmond*. The noble and learned Lord who spoke late in the debate, has entirely forgot the circumstances relative to the passing of the Boston port-bill; and the opposition it met with from this side of the House. I must put his Lordship in mind, that it was very strenuously opposed; and that, upon the very ground urged this day in debate. I remember very well too, that the noble and learned Lord foretold, that it would meet with no opposition from the inhabitants of Massachusetts Bay, and pressed un-

animously

nimously as the best means of ensuring it success. It was on the faith of those assurances, that the bill was not opposed on the third reading. It was treated no more than as a matter of mere form, the bill was to be passed, the tea was to be paid for, and tranquility was to be the consequence. How miserably those persons, who reasoned in this manner were deceived, or how miserably they endeavoured to mislead others, and I am sorry to say in some measure succeeded, will I trust be not shortly forgotten. Before I sit down, I shall just mention a very particular circumstance, which happened at the time of passing that celebrated bill. None of the noble Lords who disapproved of the bill, having thought it necessary to attend at the third reading; to give it the greater éclat, it was entered in the journals, *nem. con.* Whereas, it is totally unusual and unparliamentary to do so, when an opposition has been made to the bill in any stage.

Several altercations now arose, as the Duke of *Grafton* proposed his several motions. His Grace, however, consenting to withdraw that part of his third motion, relative to an account of the winter-quarters provided for the King's troops under the command of General Howe, previous to his putting the question on the other part of it, respecting the force proposed to be brought into the field by the Provincials, spoke to the following effect: My Lords, it has been said this day, that Great-Britain is not able to coerce America. I should be sorry such a notion should prevail; nor do I think it well founded, if it barely depended on a trial of strength between the parties. If, on the other hand, we reflect but for an instant, that we cannot exert our whole force against America, nor with prudence or safety one half of it, that weighty consideration should be always present in our minds. It is no longer a secret, that France will not permit us. In that event, only think, my Lords, what a perilous situation we shall be in. After having wasted a considerable part of our blood and treasure in this unnatural contest; after we have stretched our ordinary means of carrying on this war as far as they can go, nay probably anticipated them considerably; our commerce on the decline, if not ruined; our manufacturers starving, or enlisted for soldiers; France, or perhaps the whole united strength of the house of Bourbon, declares against us. Where, in such a situation, are we to look for new resources? I solemnly affirm, and with grief assure your Lordships, I do not know. I am tolerably well acquainted with the finances of this country; and I am sure I cannot

think of a single tax, even in a time of perfect tranquility, that could be devised, which would encrease the gross receipt at his Majesty's Exchequer. What then must be the consequence of a war at such a period? when I can venture to foretell, that one third, if not more, of the ordinary national resources will be stopped.

Lord Visc.
Townshend.

Lord Viscount *Townshend* passed several high compliments on the Duke of Grafton, relative to his knowledge of his Grace's abilities and candour when connected with administration as Lord Lieutenant of Ireland. He lamented greatly the freedom which had been taken in the course of the debate.---He observed, that the noble Duke had said, we were not in a situation to go to war without endangering this country from becoming a province to France. Another noble Duke had asserted in debate, that what kept the troops in Boston, was the imminent risque of quitting it without being cut to pieces. This, he observed, might suggest to the rebels the very attempt. It was said, that troops were to be sent to the southward; this might defeat the measure, for he was certain, there was not a syllable said in the House that night, that would not be expeditiously conveyed to America by the first possible opportunity.

Duke of
Grafton.

The Duke of *Grafton* closed the debate, by adding one more reason for wishing for conciliatory measures.---In the event, I have first stated, Great Britain must be ruined by prosecuting this unnatural war. In the other, that is, supposing she prevails, and brings America to her feet, I shall fear that, if possible, still more; for I am perfectly convinced, that the liberties of America once gone, those of Great Britain will not long survive them.

The question being put upon the Duke of Grafton's motion, it passed in the negative. No division.

The Duke of *Grafton*'s second motion was, "That a state of the army now in America be laid before that House, according to the latest returns."

It passed in the negative, without a division.

He then moved, thirdly, "That his Majesty's servants do lay before the House any plan or plans which may have been adopted for assigning winter quarters for the troops now in America; and that an account of the number of forces in the Provincial army be laid before the House according to the best estimate that could be obtained."

The former part of this motion, respecting the winter quarters of the troops, was withdrawn. The latter part of the motion being put, it was negatived without a division.

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He moved, fourthly, "That an estimate of the forces now in Great-Britain and Ireland, be laid before the House."

Affirmative without a division.

He moved, fifthly, "That an estimate of the military force necessary to be sent against America, with an account of the number of artillery, &c. be laid before the House."

Negative, without a division.

November 16.

Private business.

November 17.

No debate. Adjourned to November 20.

November 20.

Lord *Mansfield* observed, that a bill of indictment had been found by the grand jury for Middlesex, against Elizabeth ^{Lord Mansfield.} *Duchess Dowager of Kingston*; that a copy of that indictment, together with the *certiorari*, had been laid before their Lordships agreeable to order.* The agent for the prosecution had been asked, "Whether he was apprised of the existence of a sentence obtained from the ecclesiastical court?" He had answered affirmatively, "That he was apprised of the existence of such a sentence, but nevertheless he meant to pursue the indictment."

Such being the intention of the prosecutors, it remained with their Lordships to settle only the time and place of trial. This was a matter entirely within their own jurisdiction; their Lordships possessed the right of adjusting every formality necessary to the trial of peers, and they were competent to the exercise of that right in a manner most suitable to their own ideas. The King and Peers of the realm formed a court of judicature altogether consonant with the spirit of the constitution; but whether the trial of a peer was carried on in the Parliament Chamber, in Westminster-hall, a church, or in any other spacious building, was altogether immaterial; immemorial usage had vested the power of place and time in their Lordships' breasts. If the trial of the Lady whose indictment had given rise to this deliberation should be fixed in that House, the Lord High Steward would act only in the capacity of Speaker: the interrogatories must be propounded thro' him, but he would have, in other respects, no authority whatsoever; he would give his single voice like any other Peer. The ascertainment of time and selection of place being

* On the 3d of November, Lord Mansfield presented a petition from the Duchess of Kingston, setting forth the indictment, &c. On the 6th of November, the Clerk of the Crown (according to order) presented to the House, a copy of the indictment, and the writ of *certiorari*; which were ordered to lie upon the table.

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thus within the power of their Lordships, it remained only to state the species of crime alledged against the Lady, the better to guide their Lordships in their judgment on the occasion.

There were crimes for which (if on their arraignment Peers were found guilty) the legislature had denounced terrible punishments. Their lives were forfeited to public justice; their noble blood was corrupted; their estates were either alienated by forfeiture to the Crown, or they escheated to the parties, of whom they had been held. Such were the punishments inflicted on Peers, whose offences were of the capital kind. For the trial of such offenders, too public, too awful, too ceremonious a mode could hardly be adopted. For the sake of example, this was necessary; for the sake of terror, it was perhaps useful. But with respect to the case before their Lordships, it was a charge, not of bigamy, but polygamy; it was a clergyable offence. The indictment was instituted, not really at the suit of the crown; it was the prosecution of private individuals. There were offences of a public nature, of which the Attorney General, as an officer of the King and of the public, had a right to take cognizance. He might exercise his discretionary judgment in determining what should and what should not be subjected to judicatorial tribunal. This would not apply to the case before their Lordships. The Attorney General had not in virtue of his office taken cognizance of the supposed offence. It came simply before their Lordships as a matter, although of a criminal complexion, yet entirely of a civil nature. It was connected with other disputes about property. The indictment was to be pursued in defiance of the sentence obtained out of the ecclesiastical court, which sentence to this hour remained in full force: no attempts had been made to invalidate this sentence; nor had the decree affirmed by the Court of Chancery, grounded on that sentence, been yet appealed from. This should seem, as if the Lady's opponents were too conscious of the force of the sentence to attempt an invalidation. They might be justified in this apprehension; for the noble Speaker had himself determined a case, wherein a gentleman of the same family with the Earl of Bristol [the late Thomas Hervey] was concerned. It appearing by a sentence of the ecclesiastical court, that he had been married to a Lady who claimed him as her husband, a verdict had been given on the ground of that sentence.

There was a still stronger case to evince the validity of ecclesiastical sentences. A man had been tried for the forgery of a will. The forgery was clearly proved, but a probate of the

the will was exhibited and allowed to be a sufficient bar to conviction. These cases operated strongly. They operated, not only to shew that the trial, so far from being as public, should be as private as possible, but they gave rise to this objection, "Whether, in point of justice, there should be any trial at all?" A Peeress of England was to be tried by her Peers. The curiosity of Europe would be excited. Admitting her to be convicted, "*cui bono?*" What good would result to the public? What advantage would accrue to the prosecutors? Her conviction would not in the smallest degree affect any civil suits now pending, or that might hereafter be instituted against this Lady. And as to the public at large, would her conviction operate as an example? By no means; for no punishment could be inflicted on her. Say that she was arraigned at the bar of that House. Well! the ecclesiastical sentence would be exhibited in defence, and perhaps, put a stop to the trial. Admitting, however, that this was not the case; suppose the Lady found guilty. What then? "Why then she makes your Lordships a curtsy, and you return the compliment with a bow." There is, to be sure, for clergyable felonies such a thing as *burning in the hand*. To the hand of a Lady this might be very disagreeable: but there happens to be an act of Parliament which will not permit Peers to suffer corporal punishment for any thing under a capital crime. The Lady therefore pleads her Peerage, and takes her leave.

Can there be no forfeiture? Yes, of the personal effects. But if the Lady should be convicted, the Earl of Bristol has a claim to her personal effects; and as he has formally renounced all title to the Lady, he will scarcely contradict himself, by laying claim to effects which can be his, only in virtue of marriage. The prosecutors therefore cannot acquire the smallest advantage from the conviction.

This being an exact state of facts, the trial, neither being attended immediately with any service to the public, nor eventually with any advantage to the prosecutors, if, nevertheless, there was yet to be a trial, the more privately it was conducted the more prudent would be the measure. His Lordship would not move to have the trial waved. There were several modes of effecting that purpose. A *nolo prosequi* was sometimes obtained by an authorization under the sign manual: sometimes the Secretaries of State directed the measure. In the case before their Lordships, the House might be moved to address his Majesty, "That he would be graciously

ciously pleased to give directions to the proper officer to grant a *nolo prosequi*." His Lordship did not intend to move for such an address; he threw out the measure only as a matter for future consideration. For the present, he should move, That Elisabeth, commonly called Duchess of Kingston, should be tried at the bar of that House on Monday the 18th of December next; that the Lords should be summoned two days previous thereto, and every day during the trial; that their Lordships should attend in their robes, and not depart the House without leave; that the Usher of the Black Rod should keep the next door to where he sits locked, and should keep his lobby for the reception of the prisoner; that the prisoner shall be at liberty to cross-examine the witnesses, *viva voce*; that proclamation be made every day, that whoever knows any thing touching the matter in issue, shall come into Court, and fairly and fully disclose the same; and that the oath administered to the witnesses on the trial, shall be in the following words:---“ You shall true answers make to all such questions as shall be asked of you, touching the matter in question, and tell the truth, the whole truth, and nothing but the truth, so help you God, and the contents of this book.”---The motions were all agreed to without opposition.

November 21.

Private business.

November 22.

Lord Chancellor.

The Lord Chancellor moved, That circulating letters be written to all the Peers, acquainting them, that the trial of Elisabeth, calling herself Duchess Dowager of Kingston, was fixed for Monday the 18th of December next, at the bar of that House, at eleven o'clock in the forenoon, to answer a charge on an indictment found against her, under the name of Elisabeth, the wife of the Hon. Augustus John Hervey, desiring their Lordships attendance; and that in the notices given to any of the Royal Family there be inserted, “ that their presence is desired by the House.”

Agreed to.

Ordered. Any person or persons who may have occasion to speak to the court, shall address himself or herself to the Lords in general, and not to the Lord high Chancellor.

That when a Lord gives his judgment he shall deliver his opinion upon his honour.

That the clerk of the crown of the King's Bench do attend on the day of trial to assist the other clerks.

That

That the high steward of Westminster, his deputy, and the constables, do on that day keep the passages between Charing Cross and Old Palace Yard, clear from carts and drays, from ten in the morning, till nine in the evening.

Adjourned to November 24.

November 24.

Private business. Adjourned to November 27.

November 27.

No debate.

November 28.

No debate.

November 29.

No debate.

November 30.

Order of the day, the third reading of the indemnity bill.

The Marquis of *Rockingham* opposed it in very strong terms. His Lordship observed, that it would be a disgrace to the statute books, as it held out an indemnity while in fact it asserted the persons indemnified were guilty of no offence whatever : on the contrary, it legalized the measure of sending his Majesty's Electoral troops into the garrisons of Gibraltar and Port Mahon, while at the same time it held out an indemnification for an offence against some law existing at the time the supposed illegal act was committed.

The Lord Viscount *Weymouth* agreed with the noble Marquis; he thought the bill totally unnecessary. He was sure the measure was in itself perfectly legal and justifiable, and offered to divide with his Lordship, if he should think proper to put the question for rejecting it.

The Earl of *Suffolk* said, he could not see any necessity for the bill. Besides, though such a bill should be looked upon as necessary in its present form, he could never approve of it, because the preamble was at direct variance with the enacting clauses ; that is, it proposed to indemnify such persons as advised his Majesty to send his Electoral troops into the garrisons of Gibraltar and Minorca, while the preamble, which is always taken as the ground of the bill, stated " that doubts having arisen, &c."

The Earl *Gower* united in opinion with the noble Lords ; said, his sentiments from the beginning were the same as now, that he thought the measure legal and constitutional, and had accordingly advised it in concert with the rest of his Majesty's ministers, and now, in conformity with those sentiments, he should be for rejecting the bill.

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The question was put, and the bill was unanimously rejected.

The land-tax bill, the mutiny bill, the militia bill, the vice-treasurer's bill, &c. were read the third time, and passed. There was no debate on these bills in any stage of their going through the House of Lords.

Adjourned to December 4th.

December 4.

Private business. Adjourned to December 6th.

December 6.

Private business.

December 7.

Private business.

December 8.

Lord Chancellor.

The Lord Chancellor recited the several measures which had been pursued relative to the removal of the *certiorari* in the Duchess of Kingston's case, from the inferior court, wherein the indictment was originally preferred. His Lordship defined the offence to be of a bailable nature, but not a capital felony, although, in his opinion, the blackest crime which came within the benefit of clergy, and the most grievous consequences attended the conviction. The lady alluded to had been indicted in an inferior court, for a second marriage, during the life of her first husband, by the name, stile and title of "Elisabeth the wife of the hon. Augustus John Hervey," now Earl of Bristol. In a petition she had presented to the House, praying the removal of the *certiorari*, she had stiled herself "Elisabeth Duchess dowager of Kingston." Her right, therefore, to be tried as a peeress being indisputable, it became necessary to consider what regulations should be adopted to give greater dignity to their proceedings. As the lady had been admitted to bail, the law required that she should surrender in discharge of her bail. But into whose custody? Whether the usher of the black rod, the serjeant at arms, or the lieutenant of the Tower, must be left to their Lordships. Supposing the trial should last longer than one day, to what prison should the lady be committed? In his opinion the Tower was the prison which properly appertained to that House. It might be necessary therefore to give orders that the lieutenant of the Tower should attend on the morning of the trial to receive the lady into his custody after a surrender, in discharge of her bail.

The next matter was, whether agreeable to precedent, they would insist on the lady to make her obeisance to the House

House on her knees? Or, whether in consideration of her sex, they would remit that part of the ceremony?

Another thing necessary to be determined was, whether in case any of the evidences should, through age or infirmities, require such indulgence, chairs might not be appropriated for them?

It was also proper to consider, whether an address from the Lords Spiritual and Temporal in Parliament assembled, ought not to be presented to his Majesty, praying, that a party of the guards may be ordered to attend on the occasion, to add greater solemnity, as well as dignity, to the business.

Lastly, What space without the bar should be allotted to the lady's council; what number of persons, or whether any should be admitted to be present at the trial; all these matters the Chancellor moved, might be left to the determination of a committee.

Agreed to; and adjourned to December 11.

December 11.

The Lord *Lyttelton* presented a petition from the Duchess of Kingston, praying to have her trial put off for two months. Amongst other things set forth in the petition, it was alledged that her Grace had been confined to her bed with a severe fit of illness for several days past, and was at this time in the said situation; [Her physicians Dr. Warren, Dr. Schomberg, and Dr. Falck, had given it as their opinions, by certificates under their hands, that from the present situation of her Grace, they thought it impossible for her to be able to attend before their Lordships at the time appointed.] It likewise set forth that it was with the utmost concern and grief that she found herself under the necessity of supplicating the indulgence of their Lordships, and of submitting to remain longer under the imputation of a criminal charge.

The Lord *Chancellor* said, if the House was satisfied with the allegations of the petition, he thought it would be proper to allow further time, and there was not the least doubt but the House would indulge the petitioner, when the reasons for such indulgence were made satisfactory to their Lordships, that as to the certificates from the different physicians, no notice could be taken of them unless delivered in upon oath.

The House went into a committee to consider on the forms to be observed on the trial of the person calling herself Duchess dowager of Kingston, but indicted as the wife of Augustus John Hervey, now Earl of Bristol, the Earl of

Sandwich chairman ; and came to the following resolutions, viz.

1. Resolved, that it appears to your committee that the chamber of Parliament is for the purpose of the trial a very inconvenient place ; and that it be recommended to consider of some other.

2. Resolved, that upon searching for precedents we find none or any peer being tried for felony in the chamber of Parliament,

3. Resolved, that the proper officer of the board of works do make an estimate of the expences of the proper works for such trial.

4. Resolved, that if the trial be in the chamber of Parliament, the two side doors be left open below the bar and there be an apartment for the prosecutor's counsel, witnesses, &c. as well as those of the person calling herself Duchess dowager of Kingston,

5. Resolved that the rail behind the archbishop's bench be continued to the woolfack, to prevent crouding about the fire, and for a convenient entrance.

6. Resolved, that no persons whatever be admitted within the bar.

7. Resolved, that no persons be allowed about the throne but peers of Great Britain not of this House, and the sons and heirs of peers.

December 12.

The doctors Schomberg, Warren, and Falck, attended according to order to give an account of the Duchess of Kingston's health. They thought she would not be able to attend her trial on the 18th.

Report from the committee of yesterday ; and the resolutions being read, the first resolution was read a second time.

La. Mansfield.

Lord Mansfield. I rise to give my negative to this resolution, first, because I think the committee have exceeded the order of reference, and decided upon a matter not properly before them ; and secondly, because I think there is not the least occasion nor necessity for trying the lady out of this House. As to the order of reference, it imported nothing more than that the committee should consider of several circumstances, relative and preparatory to the trial, which had not been before determined on by the House, and which at the time I moved the several former resolutions, now on your Lordships journals, I deferred for future consideration. The first of those resolutions ordained, that the trial should be within

within the chamber of Parliament. The first resolution of your committee now reported, contradicts that directly; for it says the trial shall be had out of the chamber of Parliament. This it does, to be sure, in an indefinite manner, without ascertaining the place where the trial ought to be had; but it nevertheless, contradicts a resolution taken in a very full House, against which, as well as my recollection serves me, not one dissenting voice was heard; but even if there had, or that the House had not been so well attended, the effect would have been the same; for until the resolution had been rescinded, it can require little argument to prove, that it was totally incompetent for your committee to enter into any consideration relative to the proper place of trial. Your committee have therefore exceeded the powers under which they were appointed to act. The reference did not, nor could not mean, that they were to consider of the properest or most convenient place of trial. That proper place had been already fixed by the House; therefore as long as the resolution remains on your Lordships journals, no proceedings could be had thereon. The committee have exceeded their instructions, and of course have acted irregularly. As to the matter contained in the resolution, besides the irregularity, I cannot think it at all necessary, that the trial should be held out of this House. I do not conceive that the charge against the lady has any thing sufficient to distinguish it from many others tried at your Lordships bar. In the year 1725, I was present myself, when Lord Macclesfield was tried for a grievous offence at this bar, an offence, considering the office he then held, that of Chancellor of Great Britain, accompanied by several very aggravating circumstances, for which he might have incurred a fine that would have affected perhaps the whole of his fortune, and consequently have ruined and impoverished his family. The proceedings were by impeachment, the most solemn mode of trial known under our laws. The prosecution was not carried on by counsel, as it will be on the present occasion, but by managers from the other House, many in number, and consequently requiring more room. All accusations carried on by bill of attainder, are tried at this bar. Lord Strafford lost his head on the event of such a mode of trial; and several others I could mention, were it necessary, have been tried in the same manner. If then trials affecting the fortune and honours of a Peer of the realm, working a corruption of blood, and a forfeiture of lands, have been tried in the chamber of Parliament,

Parliament, will your Lordships think, that a trial, which on conviction cannot be productive of any of those serious and important consequences, requires a greater solemnity? For my part, I am of opinion it cannot; for I remain still convinced, that although the lady should be convicted of the charge, the event will answer very few good purposes by the way of example. Such a consequence is, I believe, hardly expected. There never has such a thing before happened, nor perhaps ever will again. If it be meant as a rule, it is to my apprehension very improperly applied; for it can never work reformation or amendment among persons of a different or inferior rank. They know the mode of proceeding, already determined on in respect of themselves, should they be called to answer a charge of a similar nature; and the solemnities which may be adopted on this trial, can never possibly come home to them. The inconvenience for want of room seems to be the chief ground of this resolution; but that may be easily remedied. I remember to have seen galleries erected below the bar, for the purpose of admitting auditors; and I have frequently pleaded under them myself, when I have attended as counsel. Besides these general reasons, a solemn trial in Westminster-hall will be attended with a very heavy expence; and I doubt much, if the place of trial should be changed, and the expence attending it had been foreseen, whether the lady would ever have been tried. Another point that might have weighed with the committee, was, perhaps, that persons charged with such offences should be made as public as possible. For my part I think otherwise. If the prisoner should be innocent, and one innocent must suffer more on such an occasion than any other, her misfortune must be aggravated; if she should be found guilty of the charge, or if she is conscious it will be made good, it is more than probable she will sink under it; then there will be no trial at all, and every argument of solemnity and example will be at an end. I must again remind your Lordships, that should the lady be convicted, she will suffer no punishment whatever. The offence is a clergyable offence; the corporal punishment is remitted by statute; it will work no corruption of blood, loss of dower, or lands. If her marriage with Lord Bristol shall be proved, her goods and chattels will become his property, consequently the whole will have the strangest appearance imaginable. She will be brought to her trial in Westminster-hall, with all the solemnities

solemnities that can be conceived. The eyes of Great-Britain, and all Europe, will impatiently wait for the issue; and supposing, that the charge attended with every possible circumstance of aggravation should be made good, what will be the consequence? She will go off without any degree of punishment whatever. I have heard within these few days, that a bill is instituted in Chancery, to prove that the sentence of the ecclesiastic court was obtained by collusion between the parties, in order to set that sentence aside; but supposing it should be proved that the sentence was obtained collusively, I cannot see what benefit the promoters of this prosecution will derive from it. The prosecution is a private one, yet those who have set it on foot can reap no advantage from any such proof. I remember a case, where a person indicted for forging a will, produced the probate of it in court, in bar of the indictment, and it was received as a good plea, though it was believed he was guilty of the charge; so in the present case, though the collusion should be made manifest, the marriage will remain confirmed under the sentence. On the whole, I cannot perceive that any one good consequence can possibly result from this trial, either in a private or public light; much less can I see the necessity of having the Lady tried in Westminster-hall, in preference to the Parliament chamber. For the reasons above assigned, I am for disagreeing with your committee in this resolution.

The Lord *Lyttleton*. I will not pretend to say whether the committee have exceeded their power, or have gone out of the order of reference. If they have, it can make very little material difference: the defect can be readily remedied by motion, or the resolution objected to may be withdrawn. I am always sorry when I have the misfortune to differ from the noble and learned Lord who spoke last, particularly on a subject of this nature. I am far from thinking the offence so trivial, or the consequences so uninteresting, as his Lordship has been pleased to represent them. I think the offence an offence of the most atrocious nature, immediately tending to dissolve the great bonds of civil society; and, in my opinion, a crime of the blackest dye; for I know of none that exceeds it in guilt. It is on this account that I am for having the trial carried on in the most public manner, and with every possible solemnity that this House is able to give it. The noble and learned Lord says, that supposing the Lady, calling herself Duchess Dowager of Kingston, should be convicted of the charge made in the indictment, yet she will escape

escape unpunished. I think very differently, on the effect of such a conviction, from his Lordship. I think that it will be no small degree of punishment, should the event of the trial go against her, that the noble and learned Lord on the woolsack will, after informing her of the judgment of her Peers, ask her whether she has been ever before admitted to her clergy; and being answered in the negative, will tell her, that her punishment, that of burning in the hand, is remitted, on account of her rank; but that if ever she should offend again, on a clergyable offence, that she will be liable to suffer the pains and penalties of death; of suffering as a common felon. I do not say it is probable that the Lady will offend again in this or any other manner; but I contend it is possible she may; and under that possibility, whatever the learned and noble Lord may conceive, I insist that such a warning, delivered in the manner I have represented, will be no slight, but a very heavy and exemplary punishment, to a person of her rank. His Lordship seems to be of opinion, that the proposed solemnities of this trial will not, nor cannot, operate by way of example, on persons of inferior rank. I beg leave to think it will. I think it will teach the public at large, that the highest are not exempt from punishment, if they should transgress the laws; and it will likewise convince them, that as the laws of their country are their common security, so they are the common avenger of every species of guilt and injustice, be the rank or fortune of the offenders what it may. The noble and learned Lord, speaking of the suit instituted in the court of Chancery says, that that court is restricted in its juridical proceedings, by the sentence of the ecclesiastic court, which has declared the marriage void. Now, my Lords, if that sentence should come out to have been procured by collusion and imposition, that is another very strong and cogent reason for sifting this matter to the bottom; for what would be the probable consequences of leaving it in the power of parties to dissolve marriages by such collusive management as this? But that by previous agreement, instituting a cause of jactitation, where no evidence appearing, only such as the parties think proper to produce, the ecclesiastic court, of course, give a sentence, and they are left at liberty to marry again. If the Lady, in such a case, should happen to have children, the law is defeated, the true line of legal descent broken, and the next heir at once robbed of his honours and estate, by thus introducing a spurious issue. This, I say, my Lords, is a matter that deserves

serves your Lordship's most serious consideration; and is by no means of that unimportant, trifling nature, that it is this day so speciously represented. This Lady, or any other Lady, by such means as these, may have it in her power to render illegitimate those that are truly legitimate; and to render spurious those who have the most clear and legal rights to their honours and estates. For aught any thing your Lordships know, or can venture to foretel, if this matter be not now properly scrutinized, and enquired into, in twenty years hence it may, again present itself in a different form. We may be called upon to decide on the rights of different claimants, for those honours; or for any other in which similar arts may be employed to defeat the descent. This reason, united with several others, is one that has determined my opinion on the propriety of entering fully into the merits of this very interesting and important business. If, upon conviction, the property of the personal estate should appear to be vested in the Lady, by any particular agreement, that is another object worthy of notice; and what I think, were there no other, should urge us to see that the claim which the crown is entitled to make by the Attorney-general, should be fairly and fully maintained. The great expence of a trial in Westminster-hall is another of the noble Lord's objections; but I am confident such a consideration will never weigh with his Majesty, when justice is the object to be obtained; and that species of justice too, which in its consequences may be of such singular importance to the nation at large. There are other matters of a private nature, which are not totally unworthy of your Lordships notice. The suit the noble Lord speaks of can never come to a hearing, till your Lordships decide on this matter; for as the Lady is not obliged to answer upon oath, she will of course answer shortly to the bill filed against her in the court of Chancery, that she cannot give in a full answer till this House have determined. In this view again, the public administration of justice will be retarded. In one event, if she should be acquitted, there is at once an end of the matter; in the other, if she should be convicted, that conviction will be ground for a civil prosecution for the recovery of the real estates. On the whole, my Lords, I most sincerely wish that the affair may be fully and fairly investigated; that the trial may be in the most public manner, accompanied with every possible solemnity; and that it may not prevail in general, that this House, departing from its duty and known love of justice, should chuse to

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huddle the affair up, by having none, or at least very few witnesses, to their proceedings and the grounds of their determination.

Lord Mansfield.

The Lord *Mansfield*. I am sorry I have had the misfortune to be so much misunderstood by the noble Lord, or that it should go out of this House, that I had offered a syllable in extenuation of the crime; on the contrary, if any act of collusion should come out, and it should be made appear that the ecclesiastical court was imposed on by the parties, and made to pronounce sentence upon false information, it would be a very great aggravation of the offence, nay of much a blacker dye than some offences the law defines and pronounces murder. His Lordship states another argument, in which he is, I think, equally mistaken, and which with me would operate in a direct contrary manner from what he seems to wish. He says, the cause instituted in the court of Chancery cannot proceed, and that the Lady's conviction will be a ground for a civil prosecution. That is one, and indeed the chief exception I have to the trial, for I shall always be against criminal prosecutions, as laying a ground for pursuing and maintaining civil claims. The noble Lord says, that it is in the power of this House to add to the punishment, should the Lady be convicted. I doubt that this assertion can be justified in law. I know but of one (for there is no precedent throughout the whole business to direct us) and that is the statute of Elizabeth, which empowers justices of the peace to commit persons convicted of clergyable offences to prison, for a time not exceeding twelve months. The words of the act are, "all rogues, vagabonds, &c." I believe it would be difficult, by any analagous reasoning, to prove, that the act alluded to vests such a power in this House, over its own members. As to the general motives, for making the trial as public and solemn as possible, I see very little weight in them. Great numbers of people may be accommodated in the galleries; and as to the preservation of descents, that part of the noble Lord's argument comes to nothing; for the marriage act has obviated every inconvenience, were any such to be dreaded. It provides, that all marriages shall be publicly solemnized; that there must be a licence granted; that the parties must be known to the clergyman or resident in his parish; that there must be a publication of banns; and that the whole must be authenticated by a register.

The

The Earl of *Sandwich*. I happened to come down to the House the day the committee was to sit, and going up stairs before they proceeded to business, they did me the honour to vote me into the chair. We were fully aware that the House had ordered the trial to be had in the Chamber of Parliament; but when the plans were submitted to our consideration, we perceived, that there would not be sufficient room for the counsel and the parties; the space at each side, according to the plan delivered to us, not having room for above twenty persons at each side. Whatever we did, therefore, was merely to express our sentiments as a ground for future consideration. I do assure your Lordships, that it was a respectable committee; and that there was not one noble Lord present, who did not unite in opinion, that the Parliament Chamber was too small, and in every respect inconvenient. As to the resolutions, all I have to say concerning them is, that I was the instrument employed to lay the sense of the committee before the House; and I cannot help declaring, that both now and then, in my opinion, Westminster-hall is a much more proper place for the trial than the Parliament Chamber; for undoubtedly, the nature of the charge and the rank of the person, require and call for the most public and solemn trial. ---It is always with the greatest diffidence I ever differ from the noble and learned Lord, and now probably I am wrong. I hope therefore the noble Lord will believe, I suggest what I am going to offer, more in order to gain information, than by way of maintaining any settled opinion of my own. The matter I allude to is his Lordship's asserting, that the marriage act will prevent every possible evil, that might otherwise arise by instituting causes of jactitation in the Ecclesiastical Court; and obtaining sentences there by means of collusion and imposition. I dare say I am wrong; but I have hitherto imagined, that marriages solemnized beyond sea, or in Scotland, are valid and binding here, or within the kingdom of England, notwithstanding the provisions in the marriage act, so that they be legally solemnized according to the municipal laws of the respective countries where the ceremony is performed.

Lord *Mansfield*. The noble Lord is partly right; but he misunderstood me. I laid down the rule as a general one, not as applying to every possible exception that might arise; and and the instances the noble Lord supposes, do not come within either the rule or the exception; for in the case of the Lady, who is the subject of the present debate, her supposed marriage

riage with the present Lord Bristol was never publicly declared; she always continued to live as a single woman till the matter came to be litigated, and was brought before the Ecclesiastical court; whereas in marriages solemnized beyond sea, the parties are supposed to live in a public state of matrimony.

Lord Chancellor,

The Lord Chancellor. After what has been urged this day, there can be no doubt that the charge stated in the indictment is of such a nature, though it stood alone, as to demand your utmost attention; but when coupled with the circumstances of collusion and deceit, which is the true ground of this prosecution, I am satisfied there is not a noble Lord in this House who can think of it without horror. The crime itself, however odious it may appear, seems nothing when compared with the aggravated means employed to ensure it success, and put it beyond the power of discovery or detection. I am clearly of opinion that this trial should be accompanied with every possible solemnity; and that nothing should be omitted to convince the public that justice only was wished or intended on either side, or that any thing was meant to be suppressed. I cannot but think the punishment, though it should be productive of no further consequences but bare conviction, will be very heavy. The infamy attending it surely is something, were it to rest there; and if it should reach all or any part of the Lady's fortune, it must be very severely felt. On the whole, I do not think the Parliament Chamber at all calculated for this business; and should the aggravating circumstances, that the sentence was obtained collusively; turn out to be true, I confess the words of a great lawyer, respecting a person who married (or debauched) his sister-in-law during the life-time of his wife, seem extremely applicable, that the crime was in itself of the worst complexion, but attended by this circumstance, it became still, if possible, a thousand times more odious and criminal.

Earl of Suffolk,

Earl of Suffolk. I shall not enter into any discussion of the subject, respecting the crime with which the Lady is charged; neither shall I now give my opinion, whether Westminster-Hall or the Parliament Chamber is the most proper place for the trial. I shall reserve myself to speak to that question, when it comes properly and regularly before the House. The question now immediately under consideration, is solely confined to the conduct of the committee, to determine whether they have not exceeded their powers, and instead of adhering to the order of reference made by the House, have obeyed

obeyed that order, or have not rather controuled our proceedings. In my opinion they have; and by so doing, have acted irregularly; for which reason, when the question comes to be put, I shall vote for disagreeing with the resolution now before you. I look upon myself by no means precluded by that vote for giving my opinion for preferring Westminster-Hall to the Parliament Chamber, nor for the latter in preference to the former, when that point shall come to be discussed. If, however, I imagine that the punishment of the offence immediately depended on the mode or solemnity of the trial, I own, very fairly, that the nature of the charge, and the circumstances of aggravation supposed to be combined with it, seem to me to call for the utmost severity it is in the power of this House to inflict. But reserving my decided opinion on those points for its proper place, I again repeat, that the proceedings of the committee seem totally irregular, and as such I shall give my vote for disagreeing with the resolution now reported.

Earl Gower. I came into the Committee-room before it rose, and, as one who attended, am answerable in part for the present resolution, tho' I had no direct hand in framing it. On re-consideration, I think the committee exceeded their powers, and am therefore very ready to acquiesce in the sentiments of the noble and learned Lord who first spoke in this debate. As to the place where the trial ought to be had, I must confess, I am for every possible solemnity imaginable, and am for having it attended by every act of notoriety the enquiry into a charge of so atrocious a nature most loudly calls for.

Lord Viscount Weymouth. I do not rise to pay any censure on the conduct of the noble Lords who composed the committee. I am convinced that they acted by mistake, and offended against the order of the House, on an idea that the place proper for the trial, not the accommodation of the counsel, witnesses, agents, &c. was what was properly referred to them. This last was clearly the object which the committee was confined to. They went beyond their instructions, and of course have acted irregularly. On this ground alone, I shall vote against the resolution, reserving my definitive opinion till the matter shall come before the House in another form. If any noble Lord on that committee had wished to bring the point fairly into discussion, the regular way would have been to move to have the former order discharged, which appointed the trial to be had in the Parliament Chamber.

ber. Much stress has been laid on the heinousness of the crime, and I think with very great justice; but this has been made use of as an argument to prove what?---that the Lady ought to be tried in Westminster-hall. A very strange conclusion indeed! as if there were any thing miraculous or talismanic in the air of Westminster-hall more than in that of this House. In my apprehension, the crime, the proofs, the means of discovering the truth, will be the same in one place as the other. However, that matter being no part of the present consideration, I do not mean to give any opinion on it till it comes properly before me.

Lord Cathcart.

Lord Cathcart. There was not the least intention in the committee to pass any censure on the order moved for by the noble and learned Lord the first day this business came before the House. The resolution now so much censured, makes its present appearance by mistake; and it has happened in this manner:---When the resolutions were drawn up, the clerk was ordered to transcribe them; but as it is our misfortune at present to have but one clerk, he was obliged to come here to attend his duty, by which means he was under the necessity of giving the resolutions to some other person to copy. This person misplaced the present resolution, and put it first, instead of giving it the last place, as you will see by perusing the resolutions; for all those that follow, suppose that the trial is to be held in the Parliament Chamber, while the first declares the very contrary.---I beg leave to assure the noble and learned Lord, that the committee endeavoured to act in the best manner; and the ground of this resolution was, that no precedent could be found, where any Peer or Peers had been tried for felony, but in Westminster-hall: and in their researches, they perceived, that the committee appointed to draw up resolutions for ordering and directing Lord Macclesfield's trial, have stated the same in their report. This, united with the want of room below the bar, was, I assure your Lordships, what determined your committee to come to the present resolution.

Lord Viscount Dudley.

Lord Viscount Dudley. For my part, I do not think that the committee by any means exceeded, or went out of the order of reference. Persons from the board of works attended for the purpose of shewing the space allotted for counsel, witnesses, &c. and it appearing so very small and inconvenient, as well as for the weighty reasons urged in the course of the debate, we thought proper to come to this resolution. I dare say there is not a noble Lord who was present at that committee,

committee, has heard any thing this day to induce him to alter his sentiments. In that persuasion, when the resolutions now before the House are disposed of, I mean to give notice, and fix a day for taking the sense of the House, which is the proper place for the trial of Elisabeth, calling herself Duchess Dowager of Kingston. He made the motion afterwards, and the same was ordered to be taken into consideration on the 14th.

Lord *Mansfield*. The noble Lord (Lord Cathcart) need not have given any assurance that there was no intention of passing a censure on the motion made by me, and carried in a full House, for trying the Lady in the Parliament Chamber. I never supposed any such thing. It was not my act, but that of the House: I was only the mover. I do not mean to trouble myself any further about it, nor should I now, were it not that the order of the House is concerned. All I have to add, is, that if expedition is looked for, the preparations necessary to be made for a trial in Westminster-hall will rather retard than accelerate the business.

The question was then put on the first resolution, and unanimously disagreed to.

The second resolution being read, Lord *Mansfield* objected to it, and moved, that the House do disagree to that part of it relative to the committing the Lady to the Tower. He opposed it on the grounds of the fatigue it might occasion to the prisoner; and the difficulty of rendering her up to the Lieutenant of the Tower by any order made now, as she was out upon bail.

The Lord *Chancellor* said, he saw no difficulty at all arising from the mode proposed; that he had attended the circuits sixteen years, and he always saw, that on the first day the bail came into court and discharged themselves, by surrendering or delivering the prisoner into the hands of the proper officer, who, if the trial did not come on that day, took the prisoner into custody, and held him in confinement till he was tried.

Lord *Mansfield* again observed, that what the noble and learned Lord stated was perfectly right; but his argument went to prove, that no order for the future confinement of the prisoner was ever made, till the prisoner was first surrendered and brought into court, in discharge of the bail; therefore the proper mode of proceeding would be to wait for that event, and when it arrived, either to take fresh bail, or to commit the Lady to the Tower. -- The latter part of

this resolution was disagreed to; and it only ordered, that the Lady should, on her appearance at the bar, be taken into the custody of the Black Rod.

A bill from the Commons, to prohibit all trade and correspondence with America, read the first time; no debate.

Adjourned to November 14.

November 14.

Lord Vis-
count Dud-
ley.

Lord Viscount *Dudley*. The resolution of your committee reported on the last day this business was under consideration, being pronounced irregular, previous to stating the grounds of the motion, which I shall submit to your Lordships before I sit down, I think it incumbent on me, as serving on that committee, to point out the cause of that seeming irregularity, and the apparent contradiction there was between the first resolution of the committee and the order under which they acted. In the first instance, they proceeded to call the officers of the board of works before them, and to examine the plan and accommodations of a trial to be held in the Parliament Chamber. After such a space had been allotted for the prisoner and her attendants, for the counsel, witnesses and agents, such a space for the persons attending the trial to pass and re-pass, it was found that there would be no room for the admission of auditors of any rank or condition whatever; or that if there might for a few, it would be impossible to draw any line to ascertain who they should be. Besides, it was considered, that on account of the sex of the prisoner, it would be proper to have a room apart, where, on some occasions, it might be improper to admit any but her female attendants. She might be taken ill or indisposed in the course of the trial; she might want---to withdraw for other purposes, in which case it would be proper for her to have a room secluded from the intercourse of even her own counsel or agents, which if she should be tried in the Parliament Chamber, could not be the case, no such room being to be had. Those reasons induced the committee, after strictly complying with the order of reference, (for all the following resolutions were framed on the ground that the trial was to be held in the Parliament Chamber) to submit to the House the inconvenience of holding the trial in the place appointed, not with an intention of exceeding their instructions, or controuling the order of the House, but barely to state an opinion relative to what was the result of their enquiries. The effect of all this was, however, destroyed by a mistake of the clerk who transcribed the resolutions; for instead of placing the resolution

resolution stating the inconvenience last, he placed it the first, and by that means the whole together carried an appearance of absurdity and contradiction, only to be reconciled and explained in the manner I have now related. We had another point in view, though as we looked upon ourselves in some measure restricted by the order, we made it no part of our report, that was, after the most minute researches, we could not find a single precedent of a Peer or Peerefs being tried for felony in the Parliament Chamber. I am therefore of opinion, that I am well justified in stating the proposition I am about to submit to your Lordships, that the place of trial is unprecedented. There were besides some matters mentioned by a noble and learned Lord, whom I do not now see in his place, [Lord Mansfield] that were far from striking me in the same manner they did that noble Lord. It was said that the trial would not probably last above half an hour. Now I understand that it will be of much longer duration, and may be protracted to the length of two or three days, if not more, should the proofs come out that are expected to be adduced. The trial was, I remember, likewise treated as a slight and trivial matter; as drawing after it no serious consequences, and of course requiring none of those solemnities usual on similar occasions; but in this again I differ very widely from the noble and learned Lord, for I think a conviction for felony, pronounced by your Lordships, as the first court of criminal judicature, a very heavy punishment, a punishment that the most obdurate must very sensibly feel. I shall not speak of any of the other consequences such a conviction would be productive of, as that is no part of our present consideration. It is sufficient to observe, that the offence with which the Lady is charged is of the blackest dye, and said to be attended with the most aggravating circumstances of criminality, to shew that the trial should be had with all possible solemnity such a charge demands. If your Lordships should determine that the place of trial still remains at your own option, I have one of the greatest authorities to shew that you cannot dispense with the usual form of appointing a Lord High Steward. Lord Coke says, "Though the House of Peers have a right to try one of their own body at the bar of their own House, yet there must be a Lord High Steward appointed to preside at such trial." On the whole, my Lords, taking the inconvenience, the point of precedent, and the solemnities required on such occasions, time immemorial, I shall move you, "As the Chamber of Parliament has been found

an inconvenient place, and as it is unprecedented to try a Peer or Peeres, indicted for felony, at the bar of this House, that Elisabeth, calling herself Duchess Dowager of Kingston (indicted by the name of Elisabeth Hervey, wife of Augustus John Hervey, Esq; now Earl of Bristol, and one of the Peers of this realm) be on Wednesday the 24th of January next, in Westminster-hall."

Earl of
Marchmont.

Earl of *Marchmont*. I do not rise to oppose the whole of the noble Viscount's motion, though I think it is expressed in harsher terms than I would wish to see adopted by this House on the present occasion. What I rise chiefly for is, one of the grounds on which it is maintained, that of its being *unprecedented* to try a Peer charged with felony at the bar of this House; because I believe I shall be able to satisfy your Lordships, that the precedents all tend the other way. From the earliest and most authentic records, so early as the reign of Richard the Second, we find that no one place or chamber had the preference to another, the choice entirely resting in the House. This is plain, from their Lordships appointing the *Chambre Blanche* for the trial of the Earl of Arundel in the reign of Richard the Second, which could never have been the case, if the constant usage had been to try Peers in Westminster-hall. On the point of inconvenience, I shall say nothing. The Parliament Chamber may be inconvenient, the solemnities of the trial may require more room and accommodations than this House will permit; but what I contend is, that the positions stated in the motion, "that it is unprecedented, &c." is false in fact, and that it is competent to this House, and not contradicted by precedent, that it may, by right and ancient usage, appoint the trial to be held in any chamber your Lordships shall judge fit. ~~But~~ let us, my Lords, come nearer to our own times; let us refer to the well known case of the Earl of Strafford, who being ordered to be tried at the bar of this House, the Commons objected to it; and after several resolutions taken by both Houses on the subject, a conference was appointed, at which the proof was put on the Commons to establish the precedent. And when the Earl of Bath reported the proceedings, it appeared the Commons were obliged to rest their arguments *solely* on the ground of convenience. Such was the temper of the times, joined perhaps to the prevailing disposition of the House at that time, that their Lordships conceded, and the trial was held in Westminster-hall. The reasons assigned by the Commons, besides the argument of

inconvenience, were similar to some of those now urged. The necessary solemnity was much insisted on, so was the popularity. What was the consequence of this first concession, which was followed by several others, is totally needless to repeat. A case of a similar nature happened the very next year, more immediately applicable to one part of the present motion; that was the case of Lord Mordaunt for felony. Here the same controversy was renewed, and continued from the beginning of 1641, to June 1642, when the legal government being overthrown, the matter never came to be finally settled. On both those occasions the great Selden, to whom your Lordships are so much indebted for the very valuable manuscripts now in your possession; and who had twenty years before received the thanks of both Houses, for his useful and learned researches into the antient records of the kingdom, particularly into those respecting the origin of Parliaments; was an active member of the other House; and would, it may be well presumed, have maintained the usage of trying Peers in Westminster-hall, at the conference, if in his power. That not being the case, I am, I think, warranted, as well on that account as that the Commons themselves gave up the point in controversy, and rested all upon the argument of inconvenience and popularity, in affirming that it is *not* unprecedented to try a Peer or Peers indicted for felony at the bar of this House. The precedents now alluded to prove this, though neither of the noble Lords were tried here, for the reason before assigned, their Lordships having relinquished in one instance on the ground of convenience, and in the other the matter having dropped, and in both the House having manifested a spirit of improper concession, which, in the end terminated in their own ruin and dissolution: not, however, objecting to the ground of inconvenience, if the noble Viscount contents to withdraw that part of his motion respecting the precedent, though I think it will still have the appearance of violence and severity, I shall not be for disagreeing to the motion thus amended.

Earl Gower. I still remain of my former opinion, that Westminster-hall, on the ground of solemnity and convenience, is a much siter place for the intended trial than the bar of this House. The noble Earl who spoke last, has, indeed, confessed this in part. I shall not enter into a view of the noble Earl's sentiments. It is sufficient to determine, without entering into a further consideration, that the committee have declared their opinion, that the Chamber of Par-

liament is inconvenient; and that no sufficient reason has been yet assigned to shew the trial ought not to be held at Westminster-hall. I must however observe, that the state of the Lady's health is at present very precarious; and that her mind is so far affected, as to render her very unfit for making her defence against a charge of so heavy and consequential a nature. It is my opinion, therefore, before we take any other steps, except appointing the place of trial, that we should call upon her physicians, some day between this and the recess, to know what condition she is in, and whether she will be able to undergo the fatigue of a trial, so early as the day appointed in the motion. If she should, then it will be time enough to enter upon the consideration, and decide upon the mode and all the other circumstances consequent upon a trial in Westminster-hall. Should the noble Viscount approve of this proposition, and consent to rest satisfied with this first motion, respecting the place of trial, till we have an opportunity of learning from the Lady's physicians her then state of health, I shall very readily give it my assent.

Lord Vis.
Dudley.

The Lord Viscount *Dudley*. The noble Earl who objects to the word *unprecedented* in my motion, has taken great pains to shew, that this House have claimed a right of trying their members where they pleased. If his arguments went only to that, I should very readily acquiesce. The position contained in my motion, does not contradict it: it only states a fact, and I defy his Lordship to quote a single instance in which any Peer has been tried for felony at the bar of this House, or in any other place, but in Westminster-hall. That is what is stated in the motion; not that the House may, nor cannot try a Peer of this realm for felony at your Lordship's bar. The precedents besides, urged by his Lordship, are in the reign of Charles the First. I wish for precedents of a later date. I should have been better satisfied, if his Lordship had referred to some since the Revolution; for long before that period, the trials in this House were utterly disgraceful. It was in the power of the Prince, by selecting a certain number of his creatures, under the denomination of a committee, to sacrifice any man, who by his integrity or independent spirit had rendered himself obnoxious to himself or his ministers. If, however, the noble Earl produces one precedent, which contradicts the terms in which my motion is conceived, I am very willing to relinquish the
object.

objectionable part of it; till then I shall remain of the same opinion.

The Earl of *Marchmont*. I think the cases alluded to, ^{Earl of} fairly prove that the noble Viscount seems to doubt. ^{Marchmont.} They at least prove, that the choice remains with your Lordships; and it seems to me, to be very hazardous to establish a precedent which might, on some future occasion, though not now foreseen, establish a doctrine of a very dangerous nature. It is a great mistake, which prevails with many, that a fact establishes a precedent; whereas nothing can be more different. There may have happened many facts, without laying a foundation for establishing a single precedent. Those facts may have been attended with a variety of circumstances now impossible to be ascertained or decided on. That no direct proof can be produced of any Peer being tried for felony at the bar of this House, may be very true; but that, in my opinion, comes very short of a precedent. The present motion, if carried, would at least imply, if not establish such a precedent, which cannot be supported by any rule of former proceedings. I shall, on that account, as well as, that I take the assertion to be totally unnecessary, be for having that part of the motion withdrawn.

The Lord *Lyttelton*. We are convened here this day, my Lord ^{Lyttelton.} Lords, merely to decide on the time and place for the trial of the person, assuming the name and title of the Duchess of Kingston. The committee appointed by your Lordships have reported that the Parliament Chamber is an inconvenient place for that purpose; the natural conclusion from which is, that the trial ought to be held in the usual place of trial, which is Westminster-hall. I have not heard a single consideration of the least weight urged against it. If indeed it had appeared, that by any accident or uncommon circumstance, the Lady had been brought into a situation which would render a trial necessary, and in which the charge was of such a nature as to bespeak the innocence of the culprit, no one would be readier to grant every possible indulgence the nature and circumstances such a case would necessarily be entitled to. Is that the case here? No my Lords, should the Lady be convicted of the charge made against her, she will be convicted of a crime deeply affecting the peace and happiness of civil society; and should the conviction be attended with proofs of fraud and collusion, it will appear with every possible aggravation of the most unexampled iniquity. If the Lady be innocent, she will surely be happy in having her innocence

innocence made manifest: if the charge brought against her should turn out to be true, none of your Lordships would, I dare say, wish to have any of the mortifications resulting from a public trial mitigated or softened, much less totally prevented. For my part, I think it is incumbent on your Lordships to make the trial as public as possible. It is a duty you owe to yourselves and to the people at large, that it be attended with every circumstance of public notoriety and solemnity, to convince them of the justice and rectitude of your proceedings. Places where justice is administered should be open to the eye and observation of the public. What will be the case here? There will be room for twenty or thirty persons. This in my opinion would be establishing a very dangerous precedent. It might very materially affect this House, it might affect your Lordships posterity, and the whole body of the British Peerage. A time might come, when a Peer may be brought to his trial at this bar, when only the same number would be admitted; and care might be taken to occupy the room with persons admitted on purpose to misrepresent what had happened, which would consequently deprive the Peerage of the privilege of a fair, indifferent, and open trial. The noble Earl, who has this day endeavoured to produce so many precedents, has I think drawn them from times very unfavourable both to public liberty and true constitutional government. His Lordship has taken them from the time of Charles the First. But I trust that the principles of the Parliaments in those times were as opposite to the present, as the disposition of that mistaken tyrant was to that of his present most gracious Majesty. As to the precedent this motion may tend to establish, I do not pretend to decide on it. However, as it has been so strongly objected to by the noble Earl who spoke early in the debate, I would recommend to the noble Lord who made the motion, to substitute the word *unusual* for *unprecedented*, though I cannot perceive, that there is any occasion for such an alteration. Much has been said as to the trivial consequences which will follow the conviction of this Lady; but for my part, I think the solemnities attending it, the sentence to be pronounced by the noble Lord on the woollack, before so great, respectable, and numerous an auditory, as will be assembled on the occasion in Westminster-hall, will, to a feeling and ingenuous mind, be a greater punishment than barely suffering under any sentence the law, on the conviction of any capital punishment, can ordain or inflict.

The

The Earl of *Sandwich*. The noble Earl to whom this ^{Earl of Sandwich.} House has been so often, so highly, indebted for his great and extensive knowledge in matters of order, has I think this day employed his great learning to very little purpose. He has found fault with the motion made by the noble Viscount; and after all his learned researches, he has produced what he calls two precedents; but when we come to examine those precedents, what do they turn out to be? Why, one of them is no precedent at all, for the noble Lord alluded to was never tried; and the other proves expressly the very contrary of what the noble Earl has endeavoured to establish; Lord Strafford being tried in Westminster-hall, and not in the Parliament chamber. I think besides very differently from the noble Earl, as to the effect of the motion now before your Lordships. In my opinion, it establishes no new precedent, nor recognizes no old one. It simply states a matter of fact; that it is unprecedented to try Peers charged with felony, in the Parliament Chamber. If the noble Earl can contradict it, the matter will be at once settled: if he cannot, and that it does not go to impair or abridge the election or option vested in the House, to try their own members where they please, I cannot see any one solid objection to the motion, as it now stands.

The Lord *Sandys*. I think the option of trying any member of our own body, either here or in Westminster-hall, is clearly vested in this House; nor can I see the two precedents mentioned early in this debate, in the same light with the noble Earl who spoke last; for the proof being put on the Commons, and their not being able to make it out, appears to me a very strange reason; that the precedent was in their favour.

The Lord Viscount *Dudley*. I have no desire to press the ^{Lord Viscount Dudley.} motion, as it now stands, on the House; yet I have not heard a single reason offered, sufficient to induce me to change my opinion. The first part of the motion states a fact, which still remains uncontradicted; and I believe ever will, from any thing that has hitherto passed on a similar occasion. The noble Lord near me, [Lord Lyttelton] has suggested an alteration, by substituting the word *unusual* for *unprecedented*; but I think it better to omit the whole sentence than admit of any such change, which would imply what is not warranted by fact, that trials for felony, have at any time been held in the Parliament chamber. His Lordship then made the motion thus amended.

The

Earl of
Marchmont.

The Earl of *Marchmont*. I believe it will be necessary before the sense of the House can be taken on this motion, that that of the 4th of November be first discharged, to make way for it; otherwise there will be two contradictory motions on your Lordships journals. One for holding the trial in Westminster-hall, and the other for holding it in the Parliament chamber.

Lord Vis-
count *Dud-*
ley.

The Lord Viscount *Dudley*. The present motion may be withdrawn: as soon therefore, as the other matters agreed to in the committee are disposed of, I shall move to have the resolution of the 4th of November discharged.

Earl of
Abercorn.

The Earl of *Abercorn*. I believe, that will be unnecessary, as when we sit in Westminster-hall, it must be deemed this House. It will in my opinion therefore, be a shorter and more regular way, to let the resolution of the 4th of November stand as it is; and only add, the words "in Westminster-hall," the former resolution having made no mention of the Parliament Chamber, only "that Elisabeth calling herself Duchess Dowager of Kingston, be tried, &c. at the bar of this House," after which, only insert "in Westminster-hall," and it will meet the ideas of every side of the House; and prevent any thing from appearing in the journals, which might be construed to decide the matter one way or the other.

The noble Earl's proposition was unanimously approved, and the motion, thus modified, agreed to, which was as follows:

"That the trial of Elisabeth, calling herself Duchess Dowager of Kingston, indicted by the name of Elisabeth Hervey, wife of Augustus John Hervey, esq. now Earl of Bristol, and one of the Peers of this realm, be held on Wednesday the 24th of January next, at the bar of this House, in Westminster-hall."

December 15.

Second reading of the American prohibitory bill.

Duke of
Manchester.

The Duke of *Manchester*. I rise, my Lords, to give a negative to this bill, because, with all the attention I have been able to bestow in considering and examining its contents, I cannot discover on what ground of policy, justice, or expediency it can be fairly supported. I must observe, that the manner of hurrying, and the season of the year at which this bill has been introduced into Parliament, in remarkable thin Houses, at a time, I will maintain, when no business of importance ought to be brought under your Lordships consideration,

deration, unless in cases of the most urgent necessity, is to me one very great objection to sending it to a committee. If we examine this bill, my Lords, we shall find the great principle of it to be founded in the rankest and most aggravated injustice. We shall find it involving the innocent and guilty in one common punishment, and, above all, we must lament to see public and Parliamentary encouragement given to the subjects of one part of this great empire to rob, destroy, and pillage the other. Looking again to the sanction of the bill, and to what is virtually to force it into operation, we find one of the fundamentals of this constitution invaded. The unhappy people are not only destined to destruction. They are likewise to be robbed and plundered; and to insure the execution of the measure, the plunder is to be shared among those who are to be employed to effect this odious, this barbarous business. The matter I allude to, my Lords, is that clause which authorizes the seizure of every species of American property, which may be found floating on the sea, or in their ports and harbours; and shares the spoils thus taken, among the captors. This, my Lords, I will be bold to maintain, is a direct violation of that yet sacred Palladium of our liberties, the bill of rights; a Palladium which it is not in your Lordships power to alter, violate, or abridge, without an open and direct invasion of the constitution. That invaluable, inalienable and constitutional law, my Lords, enacts, that the property of no subject of this realm shall be seized or confiscated, without previous trial or conviction. Is that the case here? Will any of your Lordships say, that the clause of this bill, which gives the seizure to the captors, is not the most violent outrage on property that can possibly be conceived? In the first instance, the ships goods, &c. are seized and turned over to the Admiralty court, where they are condemned of course. Thus at one instant the mischief is done, and the means of obtaining justice completely defeated. Part of my leisure hours, my Lords, I dedicate to reading; and since this bill made its appearance in the other House, I have looked into books the most likely to instruct me on this head; to see if history could furnish me with a precedent of a similar nature, I found but one, that bore the least resemblance; and that was the conduct of the second Emperor of China, of the Tartar race, who issued an edict, directing that all the inhabitants on the sea coasts should burn and destroy their towns and their shipping. The edict was punctually and rigorously executed, and several thousand

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people lost their lives in the cruel devastation. This matter now alluded to, applies equally to the justice and policy of the bill. My Lords, I think it is impossible to hear or read of the present struggle of America, in resisting the oppressions she daily suffers, and the accumulated horrors with which she is threatened, and not be highly interested in the event. I feel similar impressions, but in a stronger degree to those made on me in reading of the actions of Alexander, as described by Quintus Curtius, or the issue of the battle of Pharsalia, where Cæsar gave the world a master. It is impossible, while the scene is yet passing, not to be deeply affected in the event of the present measures. My Lords, I should be obliged to any of the noble Lords in administration, to rise and inform me what is the true ground on which they mean to rest the motives of this ruinous and unnatural war. Is it for a revenue? No, that has been disclaimed by them in this House, on the first day of the present session; and it has been since frequently and openly avowed, that no revenue is expected. "It is, said they, no object; and if it were, for the present, such a scheme would be inexpedient, impracticable, and impolitic. We want America only to acknowledge a constitutional dependency on this country, an acknowledgment of the power of this legislature; and we then wish to give them perfect security and full enjoyment of their subordinate constitutional rights." Does such a language, as I have now repeated, comport with the principles and apparent intentions of this bill? Are any offers held out to induce the Americans to return to their duty, and acknowledge their subordinate dependency? Is the claim of taxation given up, or even suspended, in order to remove the apprehensions such a claim has justly excited in that country? No, my Lords, the whole question lies at issue, as when the differences first arose, and war as against alien enemies, is by this bill, denounced and publicly declared, without a single syllable of conciliation or concession; and that with an express intention of supporting, in the most unmodified manner, every one claim hitherto set up by this country over that. When a rebellion raged in the northern part of this island, a rebellion fomented and carried on against the establishment in church and state, no such prohibition as the present was thought on. Many of the people in that part of the kingdom, remained firm and loyal. In such a case, an act of this nature would be impolitic and unjust. We have been told frequently, by several noble Lords on the other side of

of the House, that great numbers of people in America continue friends to government. Why then punish them? Why adopt such a plan of indiscriminate injustice? Why involve the innocent and guilty in one general judgment?---This bill, my Lords, may establish in future a claim, at least an expectation, which I dare say, your Lordships do not foresee. Suppose, my Lords, that another rebellion should break out in the northern part of this island, or in the southern part; would not the soldiery in such a case, have as good a right to expect the plunder and confiscations consequent on the reduction of the rebels, as the seamen are given by this bill? I see no reason that they should not. It would operate as an *encouragement*; and every motive would apply in one case, that can possibly operate in the other. Every argument that can be urged in behalf of the innocent and unoffending part of the inhabitants of America, still more strongly, if possible, operates in behalf of the West-India islands, which by this bill are to be included in the general proscription, without even so much as the slightest imputation of guilt. The West-Indians too, are to be starved and ruined, to effect the desirable purposes of administration. Destitute of provisions and lumber, they cannot exist; or supposing they could procure the former, what are they to do with their crops? Or on supposing they could preserve their crops, which it is well known they cannot, how is the produce to be exported to the European markets? Having said thus much to the general policy and justice of the bill, give me leave to say a word or two to the expediency of it. Though the bill were perfectly justifiable in every other respect, this at least will deserve your Lordships most mature deliberation; what force can you send out, with safety to yourselves, sufficient to carry this *mass* of *oppression* into execution? Recruits cannot be procured on any terms. Germans, it is well known, will not answer your purpose. The Russians cannot assist you, as they are likely to have employment enough nearer home: besides, administration affect to disclaim the ever having any such intention, though I believe the contrary is well known to be true. Whence, then, are you to draw all your force? By the complexion of this bill, I would be inclined to think the whole weight of this business is thrown on the navy; but will your Lordships think it prudent to leave yourselves in a great measure defenceless at home, while the affairs of the North of Europe present themselves in their present form? I believe not. A storm, I am well informed, is gathering in that quarter. Russia and

Sweden are making preparations for war. Prussia has interfered ; and France, in case of an actual rupture, will give Sweden its promised protection, and that by a fleet. In such an event, I shall not insist, that a British fleet will become necessary in the Baltic ; because I presume that none of your Lordships can imagine that Great Britain would remain inactive, and see France send a naval force into the northern seas ; and that to act against the power in Europe with which she stands most closely connected and allied. My Lords, I shall not detain your Lordships any longer. I fear I have trespassed much too far already on your Lordships' patience. I shall therefore sit down, with making an observation on the concluding clause of this bill. It is the impowering the King to grant pardons to persons of whom you know nothing. In my opinion, it is a very improper and a very dangerous extension of prerogative. I have no fear that his Majesty will make a bad use of it. I am sure he will not designedly ; but I contend, that a Prince, even of the best talents and first-rate powers of discrimination, cannot attain such a knowledge of the abilities and characters of the persons to be appointed under this commission, as to prevent his being imposed on and deceived, in the recommendations made to him ; and that consequently the power is an improper one, because from the very nature of it, with the best intentions in the Prince, it is likely to be abused. For this, and the other reasons before rehearsed, I am against committing this bill.

Lord Lyttelton.
1775.

Lord Lyttelton. I confess I am much astonished at the two assertions the noble Duke, who rose to oppose this bill, set out with ; that the bill had been brought in at an improper season, and had been carried through thin houses. For my part, I beg leave to think very differently from his Grace, at least to draw very different conclusions. The necessity of the present bill justifies the bringing it in at the time ; and I imagined I should never hear the objection of non-attendance arise from that side of the House. If the bill has been badly attended on the part of opposition, in the other House, whose fault is that ? Is a breach of public duty in them, to be imputed as a crime to their adversaries ? I should imagine it is rather an argument in the favour of administration. If we turn to the other part of the noble Duke's assertion, we shall find it equally ill founded. The bill took a due time in passing through its several stages, and was full and solemnly debated in its progress, clause by clause. The noble Lord who conducts the public business of the nation in the House where it originated,

originated; sustained the whole weight of opposition; obviated the several objections that were made to it in the course of those debates, and convinced the independent part of the House of its utility and necessity. Such being the circumstances attending this bill, I am authorised to say, that it was neither brought in at an improper season, nor was it indecently hurried. No charge of the latter kind can, in my opinion, therefore, be made against administration. On the contrary, it is well known, and now confessed on all hands, indeed the noble Lords on the other side, have urged it as a fault that administration has committed, that they *delayed* instead of *hurried*, the necessary measures for reducing this obstinate and rebellious people; from motives of lenity, and wishing to prevent the effusion of blood, and the horrid devastation consequent on a civil war. And I am not certain, that all the mischiefs that have since happened may not in a great measure be attributed to mistaken motives of humanity.

The noble Duke says, the present bill, by confiscating the property of the Americans, is a violation and invasion of the bill of rights, because it gives the property taken to the captors, without a legal previous conviction. Does not the preamble of this bill affirm the Americans to be in open rebellion? Is not then the proof of the property following such a declaration of the legislature, and that founded on innumerable acts of hostility committed against the King and Parliament, a full and legal conviction. My Lords, it will be said, perhaps, that America is not in rebellion? What, then, can we call rebellion, if this be not? They have attacked our troops, seized the King's forts and military magazines. They have, as far as it was in their power, cut themselves off from this country, by prohibiting every kind of trade and commercial intercourse with it. If this be not a state of open war, hostility, and defiance, I am sure I cannot tell what is. Have not those unnatural colonists, to rebellion, added all the circumstances of rapine and public robbery? Have not they been base enough, under the treacherous pretence of defending the Canadians, to commit the most notorious acts of oppression and injustice? and have not the people of Canada been compelled to take up arms against them, in order to resist the universal *brigandage* that must have been the consequence, if they any longer continued passive, or did not rise in defence of their property, daily wrested out of their hands by the most shameful acts of violence? I lately saw a letter from that country, in which this reason is directly assigned, that at length

length they found it necessary to arm and defend themselves; the words were the very terms I have now used, *contre brigandage*, against this public robbery and extortion. My Lords, the noble Duke tells you, that a storm is gathering in the North, which may find sufficient employment for our fleet in Europe. Are then all the terrors of a rupture with France, in case this war should continue for any time, at once abandoned by his Grace, and his friends on the other side of the House; and do they now falsify their own predictions, delivered with so much confidence, in order to hold up fresh bugbears of their own creating? We have now no longer any fears of an invasion from France. Our coasts are no longer in danger from that formidable enemy, who, according to the noble Duke's information, is to be employed elsewhere. Sweden and Russia are preparing to attack each other. Prussia and France are to take respective sides in this quarrel. What, then, does this amount to; but that France, jealous of the encreasing power of Russia, and in compliance with her engagements entered into with Sweden, will take a part in those disputes? Does not this prove to a demonstration, that France, operated on by her jealousies, and obliged by her treaties with Sweden, can never think of preventing or interrupting us in the prosecution of reducing our rebellious subjects? Such an attempt would be madness in any event; but on the present occasion would be directly militating against her own views. But supposing, my Lords, that the matter really stood as the noble Lords in opposition have frequently stated it, in the course of the last and present session; I will suppose, what I am sure is not the case, that it was both the interest and intentions of France and Spain, to prevent us from reducing our rebellious colonists into a state of legal obedience and constitutional submission, and that if we persisted in our declared resolution of asserting our rights, that we must expect to be engaged in a war with the united force of the House of Bourbon. Would that be a motive with your Lordships, for submitting to your rebellious subjects in the present contest? I think it would not. I am sure it ought not. If a dread of a war with those powers should be a sufficient reason for such a disgraceful, *spiritless* conduct, I am well convinced it would have a direct contrary effect. Those powers would soon conclude, that a nation which had not power or force sufficient to coerce its own members, would be no longer a formidable enemy. They would look upon you as an *object*, tame, mercenary people, who from a mere love of

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of lucre, would consent to sacrifice all the pride, dignity, and superior interest of yourselves and posterity, rather than suffer a temporary inconvenience, or forego for a while the advantages derived from a commercial intercourse with your colonies. They, in fine, would look on you as a nation of merchants, from whom *nothing* was to be *feared*, totally emptied of that spirit of warfare, on every proper occasion, that martial ardour, native prowess, and thirst of fame, which have hitherto rendered you justly formidable and terrible to your enemies. Therefore I contend, my Lords, that it is doubly incumbent on you to exert yourselves, even as a means of keeping your natural enemies and ambitious neighbours in that state of awe and reverence towards you, which will be always one of the best bulwarks of the national safety, and your own domestic tranquillity. My Lords, though I wish sincerely, that America, should she persist obstinately to resist the constitutional and equitable claims of this country, may be compelled to acknowledge them; yet I do not desire that the people of that country should be abridged of their ancient privileges, such, I mean, as are consistent with the common interests of both countries; such as it is proper for us to grant or confirm, and for them to retain or enjoy. And whenever they return to a proper sense of their duty, I shall very readily give my support to any plan which may be the most likely to heal the unhappy wounds that have been already given, and for receiving them once more into the bosom of the mother-country. The noble Duke has bestowed the hardest names he could possibly invent on this bill; and to shew the folly as well as injustice of it, asks what it is we are contending for. Says the noble Duke, the claim of taxation has been given up. It has been relinquished on the idea of its impracticability and inexpediency. I deny it. I contend it never has; and we know, that the main support given to it in the other House, as well as to the general measures respecting America, was on the supposition that a revenue is expected to be obtained from America, towards alleviating part of the heavy burdens at present borne by this country. We know these are the wishes and sentiments of the country gentlemen in the other House; men of the most independent principles and most ample fortunes in the kingdom. I will not pretend to say, to what amount, or in what mode America ought to be compelled to contribute. Perhaps in their present state and condition, the assistance they would be able to give to the mother-country would be but small

small; but I insist, a foundation ought be laid in the first instance, which should keep a proportion with their abilities; and that it should be framed with a particular view to that object; so as to oblige them to share the burdens, in proportion as they shared and enjoyed the advantages of this government. I do not pretend to point out the properest or most expedient mode of executing this plan; whether by taxes or customs, commercial duties, or by requisition; those are questions of policy, that do not interfere with the principle it is our business first to establish, the principle of compelling them to acknowledge the right; afterwards it will be time enough to look to the policy and the most expedient means of effectually carrying it into execution under the consideration of the general interests of the empire, as well as to the local circumstances applying to the particular situation of either, or both countries.

Duke of
Richmond.

The Duke of *Richmond*. I entirely agree with the noble Duke, who rose to oppose the committing of this bill, in every particular opinion he delivered on it. I think it a most unjust, oppressive, and tyrannical measure; it will be therefore understood, my Lords, that in the course of what I shall offer against any clause which on account of its cruelty and injustice, may strike me, more particularly that when I dwell on that point, I by no means approve of those other parts, on which I shall forbear to animadvert, or perhaps slightly pass over. I perceive, my Lords, that this bill is a formal denunciation of war against the colonies; and on that ground, is not to be combated with arguments only applicable to a state of tranquility; or even some sorts and degrees of civil disorder. Though I totally disapprove of such a war, and the principle on which it is entered into, I am ready to confess, that many things are justifiable in such a state of things, on which the most obdurate and inhuman minds would contemplate with horror in any other. I know, that it is looked upon not only justifiable and gallant, but an act of meritorious duty, for an officer or a soldier to disguise himself in woman's cloaths, and in that disguise to stab a sentinel on his post. I know too, that men of the highest and most exalted honour have not scrupled to come at secrets under the sacred seal of confidence, and turn the information to the destruction of their enemies, when it was believed that those acts of horror and treachery promised to be means of promoting the designs, and furthering the views and success of their friends, and the cause they were engaged in. But, my Lords, where no view of this kind can be answered; where

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no one desirable purpose can be obtained, I shall always oppose an act of wanton cruelty; and I may add on this occasion, of impolicy; as I will venture to predict, it will only exasperate those against whom it is intended; and render them more desperate, determined and enraged against their merciless persecutors and oppressors. It is the clause I have now under my eye, for compelling such persons, as may be taken in the ships and vessels described in this bill, to enter on board his Majesty's ships of war. Such a compulsion is, in my opinion, a most aggravated act of cruelty. You not only deprive them, and strip them of their property, but by violence force them, at the peril of capital punishment, to serve you, as being under the act of Parliament for regulating our naval forces, and thus make them liable to suffer as deserters, contrary to the established usage observed in respect of men pressed into his Majesty's service. You even do worse, you compel them to fight against their fathers, brothers, and nearest relations; and that too contrary to the conviction of their own consciences; and should they refuse to execute the barbarous service with rigour and punctuality, you then are authorised by the law just mentioned to shoot them for a breach of duty. This, my Lords, if I had no other objection to the bill, I must confess operates very forcibly on my mind, and I would recommend to the noble Lords in administration, to amend or totally omit this clause, in the committee; and not, by a wanton *unnecessary* act of power, add to the horrors consequent on a war of so cruel and barbarous a nature. I beg leave to remind your Lordships, once more, that I do not mean by pointing to this clause, to give any sanction to any one part of the bill. All I would wish is to intimate to its friends and supporters, that this bloody clause, this provision of wanton barbarity, even on their own principles, is totally unnecessary. The noble Lord says, the present measures pursuing against America are popular; and that opposition have taken up for once the unpopular side of the question. I fairly assent in part to the noble Lord's assertion; for I believe the people were never more divided in their sentiments, than at present; but while I allow this, I do not assent to the assertion in the latitude the noble Lord has stated it. In the words of a noble Lord in a former debate [Lord Camden] we have scarcely seen an address, that has not spawned a petition. We have been told by several noble Lords in administration, that America too is divided; and I believe it may. At least we

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have

have many reasons to believe, that they are far from being unanimous. What will in all probability be the consequence of this bill, but at once to put an end to all divisions, and to render them unanimous? Yet suppose the contrary; will not this bill involve those who think this country in the right, those who have retained their loyalty, and remained firm in their obedience, in one common punishment with the most determined, open and violent enemies and opposers of the British Parliament? The former will be liable to have their ships seized, their goods and merchandizes confiscated, their persons pressed, as well as the latter. Besides, I believe this clause is contrary to the usual mode adopted in regard to persons pressed to serve aboard his Majesty's ships of war, who are never subjected to capital punishments for desertion. The noble Lord has given as a proof of the general opinion of the people, respecting this war, and particularly those concerned in the West-India trade, that if the ruin of the West-India islands was to be a consequence of it, the people of a borough in his neighbourhood, [the town of Bewdley] would never have taken the part they have done; a town which, his Lordship says, carries on a twelfth-part of the export trade to those islands. I admire the noble Lord's accuracy of computation. It is the first time, that I have heard a matter of such importance so minutely and correctly stated; and it is the first time I ever heard that Bewdley, was a place of such consequence, or that it carried on so great and extensive an export trade. But, my Lords, allowing that the borough of Bewdley advised with the noble Lord, and offered to address his Majesty unsolicited, as his Lordship says; supposing likewise that they were unanimous in their sentiments; I still beg leave to think that the West-India planters, and the great body of merchants concerned in the West-India trade in the cities of London and Bristol are full as respectable an authority as the addresses from the town of Bewdley; and to shew that the present bill will very materially affect the sugar islands, should it be passed into a law, they appeared the last year at your Lordships bar, and this year at the bar of the other House; but I believe they will hardly trouble your Lordships on the present occasion, for experience has taught them to despair of obtaining any sort of redress. It is too often a misfortune in this country for persons to entertain very different ideas, when in and out of employment. I heard the noble Lord with great pleasure on the first of this session express sentiments of a very
different

different nature; and still retaining my former opinions, I cannot say but I approved much better of the speech then delivered than of the sentiments now so warmly and so ably urged by his Lordship. When I make this cursory observation, I cannot but suppose that his Lordship's change of opinion has risen purely from conviction. On the whole, my Lords, I pronounce this bill, both in principle and in all its provisions and clauses, like those it is to succeed, and to be fraught with all possible injustice and cruelty. I do not think the people of America in rebellion, but resisting acts of the most unexampled cruelty and oppression. [*Here a cry of order, order.*] I do not retract a syllable of what I have said. I think I am justified in the expression, by the uniform custom and usage of Parliament, which secures to its members the freedom of debate, or why else are they at all permitted to deliver their opinions? If the injustice of the bill be manifest, because it proceeds on an idea which is false in fact, that the colonies are in open rebellion, the provisions of it are no less cruel. They subject the property of the innocent and inoffending to confiscation, without a trial; they give an undue preference to the navy over the army; or else establish a precedent of a most dangerous and alarming tendency, that of giving the possessions of one part of the subjects of the same empire to those employed to reduce them; but, more than all, they authorize an act of the most wanton and horrid cruelty, that of obliging such as are taken in the act of trading, for their maintenance and support, to enter and serve on board his Majesty's ships of war.

The Lord Lyttelton. I do not at all think it decent or parliamentary to allude to any thing said in a former debate; I am sure such a conduct has been always discountenanced in this House. I am happy, however, in seeing so full a bar, that I may have an opportunity of exculpating myself from charges and insinuations equally ill-founded and unjust. I cannot say that I literally remember the words that fell from me on the occasion alluded to; but I think my memory will sufficiently serve me to recollect the material scope and tendency of what I then urged. In relation to the foreign troops, I thought then, and I have not since changed my opinion, that the previous consent of Parliament was necessary to legalize that measure; that nothing could justify it but the necessity; and that an act of indemnity was requisite, in order to quiet the just apprehensions which such a measure ought to occasion in the breast of every person

Lord Lyttelton.

who wished well to the constitution of this country, as established at the Revolution, if the necessity was not stated, as the only true ground of justification. What happened afterwards? A bill of indemnity was brought into, and passed the other house; it came to a third reading in this House; and such was the extraordinary conduct of the noble Lords in opposition, that they opposed it; and several Lords in administration uniting with them, on a different ground, the bill was lost and rejected unanimously. Whether the noble Duke's friends and partizans, or I, acted most consistently on that occasion, I submit to your Lordships---as to the general measures to be pursued against America: I will remind your Lordships, that I voted and spoke uniformly in the sentiments I have this day maintained, till the first day of the present session; and on that day too I only differed from administration, because I thought measures of such wide and important extent, recommended from the throne, called for information the ministers seemed unwilling to give, or absolutely refused. Ignorant as I then was, I very properly refused to support measures, the object of which, and the means of executing, I was totally a stranger to. On that ground alone I refused to co-operate with administration. Here the matter rested till his Majesty's servants thought proper to give me that kind of information I thought necessary to direct me in my future conduct. They were pleased to repose a confidence in me, which I hope and trust I shall never abuse; and which perfectly satisfied me, that their views were ultimately founded in wisdom, and directed to such objects as promised to give and ensure the most happy and desirable termination to the present unhappy disputes. Thus convinced of the rectitude and wisdom of administration, I accepted of the place I now enjoy; but upon no other terms but those I have mentioned. I have always acted, and shall continue to act on the most conscientious motives, and upon reasons of the most perfect conviction. I do assure your Lordships, that I have never swerved from my integrity in a single instance. As to the place I have been appointed to, I received it as a mark of his Majesty's most gracious inclinations towards me. I have always looked upon it, in point of emolument, to be a matter of very trivial consideration. My fortune is too considerable to regard it in any other light. I did not seek it. I did not act the servile part of a placeman or a pensioner, by meanly stooping to apply and beg for it; and expect and think I have a right not to be in-

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cluded among such as do; for, if it was an object of moment, which it is not, I never shall sacrifice my opinion to any personal or private consideration. I own I am greatly astonished to hear the noble duke, who spoke last, affirm, that America is not at present in a state of rebellion, though his grace knows, that the colonists have been declared rebels by the most solemn declarations Parliament is capable of expressing; by acts of the whole legislature, stamped with the authority of King, Lords, and Commons. This, my lords, I think, is a precedent that should not be endured in this House, and till the authority of it is again restored, I shall never think that we can expect to have a proper obedience paid to the dignity of Parliament. I think that laws, the justice of which are arraigned and condemned by some of the very persons who are supposed to have a hand in framing and assenting to them, will always lose a considerable part, if not all, their efficacy, while such liberties are permitted to be wantonly taken with them. I know, if I was an American, and if I retained any doubt of the part I ought to take on the present occasion, and was to learn that a noble lord in this House contended that the measures proposed by this bill were founded in injustice and cruelty, and that opposition to such measures was justifiable, I must confess it would go a great way in satisfying and removing my doubts, and in determining my future conduct. I perfectly coincide in the opinion of Cicero, who was an actor in the scenes immediately preceding the destruction concerning the liberties of Rome, that such an improper licentious use of liberty is totally destructive of its essence. His expression was extremely applicable on the present occasion, *immoderata licentia conscientis*. As well therefore on that account, as the general impropriety of such a conduct, I must tell the noble duke, that if he should repeat the same sentiments, that I mean to take the sense of the House, whether it be consistent with the decorum and dignity of their proceedings, to permit such an improper liberty of speech to pass without a proper animadversion and censure.

Duke of Richmond. I imagine, if the noble lord had properly conceived my meaning, he could never have possibly drawn such inferences from my expressions. What I said then, and what I still maintain, is, that, as a member of this House, I have a full right, as long as the freedom of debate is held sacred, to deliver my opinion without reserve. The point immediately under the consideration of the House,

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is the present bill : the bill asserts, that the Americans are in rebellion ; I say they are not, and state that as my reason for opposing it. Is this indecent ? Is this unparliamentary, or contrary to the uniform and established usages of this House ? The noble lord says, that I ought and am bound to confine myself to the immediate subject of debate ; and that I am disorderly, and deserve the censure of your lordships, should I violate the usual mode of debating questions in this House. In this I perfectly agree with his lordship ; but I would be much obliged to the noble lord to direct me how to proceed, so as to debate, and yet entirely keep clear of the subject. For instance, I should particularly thank his lordship if he would instruct me how to express my dislike to the bill now before us, without pointing out the grounds and motives of that dislike. I think the bill is in its principle, and all its parts, unjust, impolitic, and inexpedient. How then can I support my assertion, but by arguing against its impolicy, injustice, and inexpediency. But, says the noble lord, though you oppose the bill, and disapprove of it, you should not arraign acts of Parliament : you should not question nor condemn the acts of King, Lords, and Commons, for so long as they remain and continue to be the law of the land, it is indecent and unparliamentary to find fault with them. Does his lordship mean to push this doctrine as far as it will go ? or does he wish to employ it only to a particular purpose, to answer that of the present debate ? In either event I fancy his lordship will find himself much mistaken. For instance, I say the present bill is cruel, oppressive, and tyrannic. I contend, that the resistance made by the colonists is in consequence of other acts, equally oppressive, cruel, and tyrannic ; and thus I prove that this resistance is not rebellion, but that the Americans are resisting acts of violence and injustice ; consequently that such a resistance is neither treason nor rebellion ; but is perfectly justifiable in every possible political and moral sense. The noble lord seems desirous of calling the censure of the House on me. If I have been disorderly I am ready to abide by the sense of it. I think I have not ; and relying on that opinion, I neither withdraw nor retract my former expressions ; and am very ready to indulge his lordship, by taking the sense of the House, whether or not I deserve its censure.

Earl of
Denbigh.

Earl of *Denbigh.* As an old member of this House, I think with the noble lord who spoke early in this debate, that the expression of the noble duke is extremely reprehensible
and

and disorderly. The noble duke may, it is true, deliver his opinion freely on the question immediately before the House, be it what it may ; but I contend, that he is bound to confine himself solely to that, and not to go out of it. Nor is any lord in this House, in debate, warranted in charging an act of the King, Lords, and Commons, with tyranny and injustice. If this licentious use of the freedom of debate were indulged, it is impossible to say where it might stop. Any noble lord might rise in his place and affirm, that his Majesty was an usurper, and that George the Third had no right to the crown of this realm. I contend, therefore, that by the laws and constitution of this realm, any expression may be as well justified, under the claim of exercising the privilege of speech ; as that, America is not in rebellion ; or that resistance to the acts of the British Parliament, is no more than resistance to the most wanton acts of tyranny and oppression. And I do openly contend, that those who defend rebellion, are themselves little better than rebels ; and that there is very little difference between the traitor, and he who openly or privately abets treason.

Duke of *Richmond*. The noise your lordships have heard, *Duke of Richmond* has reached below the bar, and must convince you that the noble Earl who spoke last has been heard there. But I will tell his lordship, that I am not to be intimidated or deterred from my duty by loud words. Such exertions of mere sound, will not prevent me from punctually performing my duty. The noble earl says, I have explained away my meaning. I believe his lordship would not have maintained such an assertion, if he knew properly the difference between explaining, and explaining away. The noble earl, as a collateral proof of his knowledge of the forms and orders of this House, says, he is an old member. I believe I am almost as old a member as his lordship ; at least, I have sat near twenty years here, ; and I cannot be persuaded that I have offended against any established rule or form of this House. As to the point of explaining away my meaning, I must remind his lordship, that I do not mean to retract any thing I have said ; and if he has properly attended to my explanation, he will be convinced, that what I asserted at both times, substantially correspond with each other ; if he should think otherwise, I now take the opportunity of informing the noble Earl, that I strictly adhere to the first expressions I used ; and am ready to abide the sense of your Lordships, who are to determine whether or not I have transgressed. As

As to the expression of traitor, the noble Earl has so freely applied, I believe there are no traitors in this House now a days.

Earl of
Sandwich.

The Earl of *Sandwich.* I am an older member of this House than either the noble Duke, or noble Earl: I have sat here these seven and thirty years, and am happy in testifying, since my first knowledge of Parliament, that I never saw the debates in this House conducted with greater propriety and decorum during my acquaintance with it, than in the course of this business respecting America. I am, my Lords, extremely unhappy, when I am a witness to such altercations as these: they always impede public business, answer no one substantial or beneficial purpose whatever, and are only productive of ill-humour. As to the point of order, if I may be permitted to state my pretensions, as one of the old, if not the oldest member of this House, I have always seen it observed, as a constant rule of debate, never to condemn any act of Parliament, unless on a motion for its repeal. In every other respect, I am of opinion that the noble Duke was perfectly justifiable, so long as he confined himself to the subject matter of the bill; but I at the same time contend, that he had no right to go out of the question, to investigate or deliver his sentiments upon points not under the consideration of the House. As some objections have been stated against this bill, which immediately apply to the business of the department, over which I have the honour to preside, I look upon myself particularly called upon to give every satisfaction in my power. Two objections have been stated against the present bill, by the two noble Dukes who have opposed its commitment. The first noble Duke complains of the injustice of this bill, because it gives the spoils taken from the enemy to the captors. Is this unusual? I am sure it is not. It has been so the two last wars carried on by this country. I do not know of a more meritorious set of men than our seamen, nor none more deserving of every degree of public encouragement; besides the general motives of executing their duty with attention and punctuality, the prospect of sharing the captures among the officers and seamen will be a very great means of speedily manning our navy without expence. It has likewise been much relied on, by the noble Lords in opposition, that this bill confounds the innocent with the guilty; but I believe your Lordships will perceive that very few can be classed in the former description, as the terrors of the continental and provincial congresses

gresses have compelled almost every man in that country to take a decided part. I shall not detain your Lordships, at this late hour of the night, by going into a long detail of proofs; I shall only mention two instances, to satisfy your Lordships of the cruel and cowardly disposition of the Americans, by stating to your Lordships, that they have even tarred and feathered three women, and have put an innocent free negro to death, attended with every circumstance of cruelty and baseness. The free negro's name was Jerry, and he was worth several hundred pounds. This man, in an unguarded minute, said, that if any of the King's ships came to that quarter, or the port where he resided, that he would pilot them safely up. This being reported to the committee, a mock tribunal was appointed to try him, and he was acquitted for want of evidence. Not satisfied with this first attempt on the man's life, another negro, not a free one, was suborned to repeat the charge, on which the unhappy man was condemned and executed, though the evidence of the slave should not have, according to the colony laws, been received against a freeman. There was another particular circumstance happened relative to this horrid affair, which was, that although the negro recanted every syllable he had sworn against Jerry, and owned that all he said on the trial was a lie, yet Jerry was nevertheless put to death. The noble Duke who spoke last seems to lament greatly the cruelty of obliging such seamen as are taken aboard the American vessels to enter aboard his Majesty's ships of war. For my part, I think very differently from the noble Duke. Instead of an instance of cruelty or oppression, I think it is doing them rather a favour, as you put them into instant pay; besides, though this bill were never passed, if we should want seamen to man our navy, and it should become necessary to issue press-warrants, the persons compelled by the clause to enter, would be liable to be pressed. So that in that view of the matter this bill creates no new hardship. Suppose, my Lords, that we should be inclined to alter or modify this clause, as the noble Duke seems desirous, you would not, it may be presumed, after you had those men in your power, put them in a situation again to resist you. What, then, are you to do? In the case of prisoners taken in a foreign war, we know they are brought home and confined in prison, and detained here till a peace ensues, or they are exchanged upon cartel during the continuance of the war; but in the present case, the matter being new, and no provi-

sion being made, and in fact in the event of a want of men, the persons found aboard British ships being liable to be pressed, I am of opinion the clause on these several grounds entirely unobjectionable. I am sure I am much obliged to your Lordships for the indulgence you have shewn, by hearing me so patiently. I shall not detain your Lordships much longer, I shall only say a word or two to the point urged by the first noble Duke who spoke in this debate. That noble Duke says, that a storm is gathering in the North: that his Majesty's ministers should not trust to the assurances of foreign courts; and that we ought not in prosecuting this war against our rebellious subjects, render ourselves by a misplaced confidence in those assurances, defenceless at home, and liable to be surprized or attacked by our natural enemies. I do not pretend to say exactly what may be the effect of the present disputes in the North; but I will tell the noble Duke that we do not trust to the assurances of foreign powers; and that if such a measure should happen to be necessary, that we shall be able at a very short warning, to fit out a fleet and send it into the Baltic: and further to assure his Grace, that by the present plan of operations, we shall not have a single line of battle ship in America, as three fifty gun ships will be sent to replace the three line of battle ships now serving on that station; and that consequently we shall have such a formidable force at home, ready to act upon any emergency that may arise during the progress of this business, as will not only be fully sufficient to protect ourselves against any attack our enemies might meditate; but likewise to adopt such other measures of vigour and effect as the particular state of affairs in Europe might render necessary or expedient.

Lord Wycombe.

The Lord Wycombe [Earl of Shelburne.] In whatever view this bill, both in principle and the mode of enforcing that principle, presents itself, it appears to me to be fraught with every accumulated species of impolicy and injustice. I shall, in the few observations I propose to make on it, deliver my mind freely; on this, however, as on all former occasions, looking upon myself at liberty to alter my opinion, and to regulate my judgment merely on the merits of the matter under debate, combined with its own particular circumstances, not by any collateral motives, which do not properly relate to the question before me. The first matter that forces its way to your Lordships consideration, on perusing this bill, is the principle which to me appears no less cruel than

than impolitic. It is, as it has been well observed in the course of this debate, and to which I have not as yet heard a rational answer, to the last degree cruel and unjust, because it involves the innocent in one common punishment with the guilty. It is impolitic, because it will throw the people into a state of desperation, and of necessity force them to take up arms in their own defence; so that it will have the double effect of transforming your friends, such as have hitherto continued so, into the most inveterate enemies, and inspiring both friends and foes with the most enthusiastic and desperate resolutions, of resisting a coercion that leaves them no other alternative but submission to the most abject state of slavery, or of ending in their complete destruction, unless they should prevail in the contest. But, my Lords, I have a stronger objection to the principle of the bill than even that I have now stated. It proceeds on the idea that America is in rebellion to the just authority of this country. I deny it. I contend they have been in part, if not entirely, forced to take up arms in defence of their property, which has been attempted, by the acts of this legislature, to be wrested unjustly out of their hands. They have been taxed by the British Parliament, for the purpose of raising a revenue. They have been thereby deprived of the inalienable privilege of a British subject, that of voting away his own money, of judging of the quantum, and of the propriety of entirely withholding it, should he not approve of the uses or purposes to which it may be intended to be applied. Besides this general unquestionable ground I have now stated, taxation has been attempted to be carried into effect, contrary to the usual mode, to the antient usage of requisition. I therefore contend, that the principle of the bill is ill founded, and unjust in the first concoction; and therefore that the idea is false, on which it proceeds, for the colonists are not in a state of rebellion, but are armed in support of their just, their inalienable and constitutional rights, thus openly invaded and attacked. The noble Earl in office has assigned every reason for inserting the clause in this bill, which has been objected to by the noble Duke, but what appears to me to be at the first blush the most obvious. His Lordship says, that in a foreign war we secure all prisoners which fall into our hands in prison; but that we will not know how to dispose of those which may be taken on the present case, as no provision has been made in the bill for that purpose.---But if the noble Earl will permit me, I will tell him, what appears the true motive

motive for inserting that clause, a mere wanton act of feminine revenge, a mere love of cruelty and oppression.---But let us pass over that consideration, and turn to the means proposed in the bill itself, for ensuring its operation. This I take to be framed too on other grounds than those of merely rewarding merit. On a former occasion the noble Earl, though he did not positively assure us, gave us the strongest hopes that we should be able to man our navy without pressing; but finding it impracticable, the noble Earl and his brethren in office, have had recourse to this method of dividing the prizes taken among the captors, in order to avoid the unpopular mode of pressing, or of disclosing to the public, that our seamen are as averse to this service as our landsmen have already proved themselves. I believe the noble Earl distinguished himself in a warm opposition, during the Spanish war 1741, and assisted in carrying the measure against the minister, for dividing the captures taken from the enemy, among the captors. Lord Bath was at the head of that opposition: and I believe the noble Earl does not forget that the great argument then used, in both Houses, was, that such an encouragement became absolutely necessary; for as the merchants wages were so much higher than the pay allowed by government, such a stimulative to enter aboard the King's ships, would be the only, best, and most probable means of speedily manning our navy, upon any sudden emergency. This, my Lords, cannot be said to be the case at present; no such reason can now be assigned; for I believe the merchants wages are rather lower than usual; at least I am well informed they have not been raised for some time past. I do not know, that dividing the prizes in the manner usually adopted among the captors, is perfectly right at any time; but as it is the only reason that has been ever assigned, and that it does not at present exist, I must confess, that that, with the circumstances attending it, is another reason why I am against this bill. I should think myself justified in passing over the matter I am now about mentioning to your Lordships, as not directly applying to the subject matter of this debate, if I did not think it of the most material consequence; I mean the two resolutions agreed to in the other House, relative to the colony of Nova Scotia. As we cannot procure any information in this House, I am under the necessity of seeking it wherever I can find it. In the votes of the House of Commons, I find that they have resolved, that no other duties or customs shall be paid for any goods or merchandize

chandize imported into the colony of Nova Scotia, but what it expressed in the second resolution, and that in the second resolution, that is resolved not to exceed eight *per cent. ad valorem*, on all foreign commodities. Now, my Lords, on these resolutions, two matters very sensibly strike me. First, the smallness of the revenue, for which it seems we are contending; and secondly, the direct invasion of the act of navigation, expressed in the second resolution, which states the duty of eight *per cent.* to be upon foreign commodities imported from the place of their growth. This last in my opinion, is directly cutting up that great Palladium of our commerce, that great source of all the advantages we now happily enjoy, as the first commercial and trading nation in Europe; for the spirit and letter on which the whole of that law is founded, are, that no article or commodity shall be directly imported into the colonies from the place of their growth. Taking this in either light, as a mark of indulgence and favour intended to this paltry colony, which has cost this country more than the fee simple of it is worth; or taking it as a foundation for a treaty with the other colonies, I think such an invasion of the navigation act totally improper. But when we come to compute what the probable amount of such a revenue would come to, we must pause with astonishment to behold this country involving itself in such scenes of blood, expence, and ruin, in the pursuit and attainment of such an object. The imports into the colonies are computed to be between three and four millions annually. Now, taking it on the largest scale, we may presume, that the amount of the foreign commodities to be permitted to be imported, would be about an eighth of the whole imports, which, by computation, is found to be the case in the colony just mentioned. Take, then, the eight *per cent.* and you have the sum total of the revenue, which will be at or about forty-five thousand pounds *per annum*, a sum which will no more than pay the expence of collecting it; and indeed, if not managed with greater oeconomy than the last, would not be sufficient. If, then, our present warlike preparations, in which, to borrow a current ministerial phrase, every nerve and sinew of war and national ability is to be exerted, be to obtain just nothing; I can only say, that it brings to my remembrance the conduct of a country gentleman, who made it a condition with his tenants to supply him with a certain number of carts and horses, and prided himself greatly in that mark of his authority, though he enjoyed it at the expence

expence of a considerable decrease in his rents, as he let his lands considerably lower than the real value, on that account. On the other hand, if the resolutions are meant to stop there, and is intended as a mark of particular favour, I think, at all events, it is very improperly exerted towards such a paltry province, Halifax being called the gin shop of America, which, according to a late publication, does not import above thirty thousand pounds *per annum*, and has already cost this nation between three and four hundred thousand pounds, while Pennsylvania, whose imports are three hundred thousand pounds *per annum*, never cost this country a single shilling. But above all, I am warmly against any measure which may directly or indirectly be the means of defeating that valuable and truly beneficial law, the act of navigation.

Earl of
Sandwich.

The Earl of *Sandwich*. The noble Lord who spoke last, I believe, nay I am sure, must be mistaken, respecting the lowness of seamen's wages, for on applying lately to the master of a transport vessel, he advised a press, as he said it would be impossible to procure hands to man his ship, unless at a very advanced price, as he was obliged to promise them thirty-five shillings a month, and yet they still demanded an advance; and before they got out of the river, would probably refuse to proceed on their voyage, if their wages were not raised to fifty shillings per month.

Lord Wy-
combe.

The Lord *Wycombe*, [Earl of Shelburne.] I imagined that a noble Lord, high in office as he is, and at the head of a great department, might have drawn his information from a better and purer source than from the master of a transport vessel. I have no manner of reason to doubt that the noble Earl has stated what the master told him very faithfully; but I should have hoped that his Lordship knew the world, at least the duties of his office, better than to rely solely on the information of a person whose interest immediately depended on misleading him. I am not surprized, therefore, though I do not believe the fact, as coming from the master, that he said the seamen would insist on fifty shilling per month before they left the river; but I am much surprized that he did not state it much higher, and that the noble Earl should rest satisfied with the report of a man who was to profit from the imposition.

Lord Vis-
count Wy-
mouth.

The Lord Viscount *Weymouth*. I do not think that the noble Lord who stated the resolutions agreed to in the other House, was justified in making them any part of the subject of

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of this day's debate, or going out of the question immediately before us. We are not bound to adopt the resolutions he mentions; and if they should be found to militate, or to be subversive of the act of navigation, we shall at a proper time have an opportunity of considering them in the only parliamentary manner in which they can be mentioned in this House; at present, such a discussion is totally irregular and premature.

The Lord *Wycombe*, [Earl of Shelburne.] I cannot think *Lord Wy-* myself in the least disorderly. The subject of this debate re- *combe.* lates to America. I think therefore I am fully justified in speaking to any material point which concerns it. The resolutions of the House of Commons of last year were made a ground of treaty with the colonies: I think very improperly; for this House, in my opinion, should have been previously consulted.

The Lord Viscount *Weymouth*. There is a very material *Lord Vis-* difference between the resolutions relative to Nova-Scotia, *count Wy-* and those of last year. On the latter no measure was pro- *mouth.* posed or taken; on the former a bill is ordered to be brought in, consequently the matter will come properly before your Lordships.

The Duke of *Richmond*. Besides the clause which I have *Duke of* before mentioned, as full of wanton iniquity, I should be *Richmond.* glad to be informed by some noble Lord on the other side, whether all ships, &c. found in port, belonging as well to the enemies as friends of government, are liable to confiscation, when not found offending, that is, trading at sea; because, if the clause means that, I think it is still an aggravation of the monstrous and notorious injustice of this bill.

The Lord *Wycombe*, [Earl of Shelburne.] I had my *Lord Wy-* doubts relative to this clause the noble Duke has mentioned; *combe.* but on closer examination, I think one part seems to intend the contrary, though it is not clearly expressed. I should be glad, before we rise, however, to hear some of the noble supporters of this bill rise and explain it.

The Duke of *Richmond*. I fear I am not perfectly under- *Duke of* stood. What I mean is, supposing a friend to government, an *Richmond.* innocent man, on learning the contents of this bill, should endeavour to comply with it, and neither wishing to offend against the law, nor risque his property, should put his vessel into dock and unrig her, waiting for better and more peaceable times; whether, I say, in such a case, his vessel so laid up, would be liable to be seized and confiscated?

Lord Vis-
count *Wey-*
mouth.

The Lord Viscount *Weymouth*. It is impossible to decide, or give a direct answer to the noble Duke's question; that must be left to the determination of the courts of Admiralty.

Lord *Mans-*
field.

The Lord *Mansfield*. The noble Duke has put his question very fairly. In my opinion, the intention of the bill is, that the ships, &c. laying in dock, should be subject to confiscation. The principle of this bill is, to make a naval war upon America: and as in such cases it would be impossible to make distinctions in favour of the innocent, the bill has been framed according to the general ideas of carrying on war against a foreign enemy, where it is always taken for granted, that every individual is concerned in and abetting every act of public hostility. And I presume, that the great motive for passing this bill is, to vest the effects, &c. found in the possession of the Americans, to the captors; because no existing law has provided for the case of a sea war carried on against rebels. In king William's time, when Ireland was in rebellion, the defect was first discovered. A few of the rebel ships were taken and condemned, but the legality of such an act was doubted. On the whole, I take it clearly, that the clause extends generally without exception.

Duke of
Richmond.

The Duke of *Richmond*. I think it is an additional reason against sharing the whole of the confiscations among the captors, as it will not be now in his Majesty's power, by this bill, to make any distinction in favour of those who must, according to the noble and learned Lord's explanation, suffer innocently; whereas, if a part of the confiscation were reserved for that particular purpose, redress might, on a petition and a consequent enquiry, be obtained.

A conversation now arose, relative to the powers vested in the Crown, between the Lord Chancellor, Duke of Richmond, Lord Shelburne, and Lord Weymouth; in which the power of pardoning in the first instance, and the reason for inserting the clause in the bill, seemed to be misunderstood, till Lord Mansfield observed, that such a power of delegation was inherent in the Crown without the aid of Parliament, which he instanced in the uniform exercise of it by the Lord Lieutenants of Ireland, and the commission issued in the reign of king William, to treat with the Irish rebels. But the reason why it was mentioned in the bill was, because the power here given militated against two acts of Parliament, which of course called for equal power to set them aside.

The

The bill having been read a second time, it was moved to commit it. Upon this motion the House divided.

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Dissentient,

First, Because this bill; by considering the colonies in America as a foreign nation, and declaring war on them in that character, has a direct tendency to effect an entire, and we fear permanent separation between the two capital parts of this empire. It is new to behold a nation making a separation of its parts by a law, in hopes of re-uniting them by a treaty. The sovereign power has hitherto always regarded rebellion as the criminal act of individuals, and not the hostility of any great collective body of the community. The framers of this bill admit the principle in its full force, although by all the provisions they every where contradict it; for whilst the clauses of the bill consign all to punishment, the preamble only declares, that many are guilty, the legislature chusing to be considered rather as unjust to particulars, than confess itself to be universally odious. The English on both sides of the ocean are now taught by act of Parliament to look on themselves as separate nations; nations susceptible of general hostility, and proper parties for mutual declarations of war, and treaties of peace. We are by this act preparing their minds for that independence, which we charge them with affecting, whilst we drive them to the necessity of it by repeated injuries.

Secondly, Because this bill enables and encourages the navy of England to make an indiscriminate prey of the property of English subjects trading to or from the colonies (even of the ships which lie quiet in the American ports) without regarding whether that property belongs to friends or enemies, to the dutiful or to the disobedient. This plan of promiscuous rapine (unworthy of the wisdom and decorum of government) must compleat what yet remains to be compleated, of the union in North-America against the authority of Parliament. Parliament in this bill seems much more inclined to distress, than able or willing to protect. In North-America the refractory and submissive may be blended together. In the West-Indies all are innocent; but all are doomed to a much more severe, and much more certain punishment, than falls

upon the most guilty in North-America. The whole accommodation, if not the immediate subsistence of the West-India islands, depends on a commercial connection with the continent, from which by this bill they are expressly restrained. One of the chief, and much the most plausible of the complaints made last year against the North-American colonies, was a resolution on their part to withhold supply from the sugar plantations. But this year we have made ourselves to adopt and sanctify that very conduct which he had painted to the world in such odious colours. It must appear as if this bill was purposely made against the West-Indies; and lest the people of the united colonies might return to sentiments of fraternal affection, or from motives of self-interest, or from impatience of so hard a restraint, should disobey or elude the orders of the congress, and afford relief to our innocent planters in the West-Indies, it seems as if an act of the British Parliament came in aid of that authority, and provided that no supply whatsoever shall be carried to the West-Indies, contrary to the resolution of the congress.

Thirdly, Because this bill greatly exceeds in violence, the pattern of injustice which it seems to follow. In some respects the prohibition of the congress materially differed from the prohibition of this bill. Theirs was not immediate. Time was given to the West-Indies for supply both from America and other places. No confiscations were made. We, on the other hand, have permitted the trade from America, as long as it was necessary to save ourselves from famine, and to enable the colonies to pay their debts. This supply they have made plentifully, and many of these debts they have discharged most honourably. In return for this, to us useful and honourable behaviour, ministry, abusing the bounty of Providence, on the first restoration of domestic plenty, has fabricated a bill for seizing America vessels, now trading under the faith of an act of Parliament, no ship of theirs being suffered to return to its own country, either from hence, or from the West-Indies.

Fourthly, Because the bill, not satisfied with making predatory war upon the trade of the colonies, thinks it necessary to stimulate particular avarice and rapacity to an activity in such service, by rendering captures of North-American vessels and goods, the property of the captors. This regulation is now, for the first time, (by any regular authority in this kingdom) to be adopted in a civil contention. We consider
this

this method of holding out the spoil of their fellow-citizens for the reward of alacrity in civil war, as a source of the most dangerous corruption that can be conceived, in the first instance to our navy, and in its consequence to our army. A number of bold, enterprising men, trained to the profession of arms, with fortunes to make, and promotion to be obtained, are naturally lovers of war. When they have once tasted of emoluments from domestic spoil, they will no longer look on the commerce of England as an object of protection, but of plunder. They will see the prosperous state of peaceful domestic industry, not with pleasure, but with envy. They will be taught to wish for those lucrative civil commotions, which they will always have the means of provoking. Our soldiers in the land service will see no reason for their being distinguished from the marine; and they will call for the plunder of English trading towns, when they see that the seamen have been indulged in the plunder of English trading ships. It never can be safe for a state to hold out an interest in disturbing it, to those who have the sword in their hand. The greatest republic of which history gives us any knowledge, was subverted by this licence of domestic plunder. We are perfectly assured, that the navy of England wants no such unnatural and impious encouragement towards the performance of any duty which their known public spirit, and yet uncorrupted honour, may make it fit for them to perform. And it is no less on their's, than on the public account, a matter of the most serious affliction to us, that a service always looked upon (and hitherto most justly) not only without fear or jealousy, but with the most partial affection in every part of this empire, should be unnecessarily exposed to the lasting odium which must attend those who are enriched from the spoils of citizens, amongst whom they may be obliged to spend their lives, and form their connections. Civil wars (when they must be made) should be made in such a manner, as not to render the return to peace and cordiality impracticable. If the spoil ordered by this act had been left in the crown, the crown might use it as an encouragement for a return to obedience, and as a means of future peace. It is now only a provocation, through despair and resentment, to perpetual hostility. We cannot possibly discern how any necessary operation of war is strengthened by this disgrace of legislature. But if the arms now used, should succeed so as to enforce a temporary and reluctant obedience, we see but too well, that this bill will leave such a sting in the minds of

the colonists, as to render our government there hated and suspected, and therefore for ever precarious.

Fifthly, Because this bill, by anticipating all legal judgment of the offences of those whose goods are forfeited, overturns one of the most excellent and profoundly considered parts of that fundamental law, the declaration of rights, which declares, "that all grants of fines and forfeitures of particular persons before conviction, are illegal and void." This provision is expressly made, lest rapacious ministers, scenting confiscation, or rapacious soldiers allured by the lust of plunder, should be induced to forge or provoke plots and rebellions, in order to enrich themselves out of the public disorders.

Sixthly, Because very extensive commercial property of British subjects (implicated by the nature of commercial intercourse with that of innocent Englishmen residing here) is to be taken out of the equitable jurisdiction of the common law of England, and from that inestimable birthright of the subjects of this kingdom, a trial by jury, and carried to the court of admiralty to be tried by a single judge, on the rules of an arbitrary, foreign law.

Seventhly, Because the whole scheme of this predatory war for private lucre, is put under the arbitrary direction of certain commissioners, to us unknown, even by name; who have power to give such continuance to the ravages authorised by this bill, as their arbitrary will shall suggest; to pardon or except from pardon, any number or description of persons, and with such exception as they shall see fit, without any other rule than their own private opinion, fancy, caprice, favour or resentment; and without any other rule to open or keep shut, any colony, province, county, town, district, or place. We are of opinion that the power left to the said commissioners, is perfectly unjustifiable and unconstitutional. It has beside a tendency to create the most shameful and mischievous monopolies. The power given to the admiralty, and to the West-India governors, to license ships, is of the same nature. If such monopolies and jobbs should not arise from such powers, it is no fault of this bill, which, as if it had these purposes in view, has taken especial care to provide as strong a temptation, as human nature, set above law and restraint, and furnished with every facility to corruption, can possibly be exposed to.

Eighthly, Because we know nothing of the business of these commissioners, further than the above arbitrary discretion with

with regard to pardons. Rumour gives out, that they are to have a power to treat with the Americans for a redress of their grievances. Of this, however, neither the speech from the throne nor the bill have given the least intimation. Although if the commissioners treat on this subject at all, acts and powers of Parliament being the matter of complaint, the commissioners ought to derive some previous authority from Parliament, in order to give weight and efficacy to their negotiations, and to preserve some appearance of dignity in ourselves. It is hardly proper, that Parliament should appear in no other light than as the instrument of penal restrictions, attainder, penalties, and confiscations; as the maker of menacing addresses, and the rejector of dutiful petitions. It is hardly decent to shew ourselves fierce and inflexible here, but to be satisfied with permitting unknown persons whom ministers shall chuse in future to appoint, to dispose in America of powers and acts of Parliament at their pleasure; leaving us first the odium of rejecting reasonable requests, and afterwards the disgrace of ratifying shameful concessions.

Ninthly, Because we reject with indignation that clause of this bill which by a refinement in tyranny, and in a sentence worse than death, obliges the unhappy men who shall be made captives in this predatory war, to bear arms against their families, kindred, friends, and country; and after being plundered themselves, to become accomplices in plundering their brethren. If there exists a doubt whether to justify the infliction of capital punishment on desertion, it should be necessary to prove that a seaman was a pressed man or a volunteer; the object of this clause is to deprive the American seaman of the plea of his being a pressed man, as it declares that he is to be considered to all intents and purposes, as having entered voluntarily into the service. By this clause, not only common seamen, but masters of vessels are, without regard to age or circumstances, or condition, to be ignominiously turned before the mast, and subjected to the austere discipline of the boatswain. Persons, in that subordinate station, not being animated with the liberal and ingenuous spirit which distinguishes officers in the navy, and taught to consider these forced volunteers as rebels, will be but too apt to aggravate the miseries of captivity by insult and outrage. These prisoners, among the comrades they are obliged to live and serve with, may very probably be often forced to behold the spoils of their honest industry, and the natural support of their

their sober families, squandered in riot and profligate debauchery before their faces. This we look upon as the last degree of wretchedness and indignity, to which human nature can be subjected. This cruelty, unknown to the most savage nations, is to be practised by Englishmen on Englishmen. It has been said in Parliament, that the pay the prisoners are to receive is to be considered as a full compensation for the principles they are obliged to violate. We do not envy any one that sentiment. An attempt is also made to justify it by the supposed right of pressing. We cannot conceive that the burthens of subjection ought ever to be imposed, where the protection belonging to it is denied; or that a man can ever be despoiled of his goods as a foreign enemy, and at the same time obliged to serve the state as a citizen. This compulsion we have never heard to be practised on any prisoners of war, or in rebellion---nor do we know any example of it, except among pirates---the outlaws and enemies of human society.

Tenthly, Because a bill so unprecedented in its nature and so important in its consequences, is brought in at a time of year, when by experience it is known, that most of the independent members of both Houses are called away by their domestic affairs, and when few but those in the immediate pay of the court, and attending on their employments, are in town. This we conceive to be done in order to impress the public with a delusive idea, that those measures are agreeable to greater numbers in both Houses, than in reality they are. The only part of this bill, which we approve, is the repeal of the unjust and improvident acts which have produced all the evil effects we had foreseen, and none of the good which was pretended as the ground for making them; acts, as unfit for, as incapable of execution. But to our inexpressible grief, and to the disgrace of the public councils of this kingdom, ministers, untaught by misfortunes and unchecked by disappointments, at the very instant they are obliged to demolish the old fabrick of their oppression, as useless and mischievous, are building up another on nearly the same model, and with the same materials, adding only something more of that injustice and violence, which have always proved mischievous in proportion, as they have been augmented.

RICHMOND,
PONSONBY,
FITSWILLIAM,
ABERGAVENNY,

ROCKINGHAM,
CHEDWORTH,
ABINGDON,
MANCHESTER.

December

December 18.

The order of the day to go into a committee on the American prohibitory bill.

The Duke of *Manchester* said that whatever view administration could have in deceiving the public, might be matter of speculation, and was what he would not pretend precisely to determine; but by the account that appeared in Saturday's Gazette, published by authority, and immediately under the direction of administration, it appeared they were determined to bring the London Gazette on a level with the Brussels Gazette, published during the late war. By the account alluded to, he remarked, that our affairs in Canada were represented to be in a very flourishing condition; whereas the very contrary was well known to be true, for there were authentic accounts of a later date from that country, which say, that St. John's was in the hands of the provincials, and that probably the next accounts will bring advices of the total destruction of General Carleton's army, and that we are not in possession of a foot of land in Canada. His Grace, as well on account of this news, as the general importance of the bill, moved that the commitment might be put off till after the Christmas recess.

He was seconded by the Marquis of *Rockingham*, who, besides the general reasons urged by the Duke of *Manchester*, said, that the merchants were alarmed, and that in such a case he thought it would be very proper to defer the further consideration of the bill till after Christmas, as in such a state of uncertainty, but more particularly on account of the alarm the bill had created among the trading and commercial part of the nation, the consequences were, in many respects, much to be dreaded.

The Earl of *Suffolk* said that the King's ministers were fully justified in causing the account relative to Canada to be inserted in the Gazette; that it was the last authentic account received from that province. That the ministry had received the account alluded to by the noble Duke, but they had no right to pay any attention to it, as it did not come through a channel on which they could depend; that it might be, for aught he could say to the contrary, very true; but whether it was or not, it could not affect the present bill; because if Canada was in the hands of the provincials, it should become Great-Britain to act with greater firmness and vigour.

The Lord Viscount *Townshend* said, that the present reason for deferring the commitment of the bill, had no possible weight

weight with him. If an account of our prevailing in this skirmish, or being defeated in that, was to sway and influence the British councils, it was a state he never expected to see them reduced to ; that if the principle which Parliament meant or avowed to pursue was a good one and practicable, nothing ought to divert them from it ; for he hoped they had the power to enforce what they certainly had a right to claim.

Lord Wycombe.

The Lord Wycombe [Earl of Shelburne] observed, that no man had a higher opinion of the military abilities of General Carleton than he had ; but he could not say but that gentleman, if the accounts from Canada were to be depended on, had acted in a very unjustifiable, reprehensible manner in his civil capacity.

Lord Viscount Townshend.

The Lord Viscount Townshend to explain, and passed the highest encomiums on General Carleton. He said there was not a braver nor more capable officer in the service. That what he had said relative to his not having a sufficient force to oppose the rebels, was not so much in point of numbers as discipline. He had, it is true, a good number of troops under his command, but they were mostly composed of militia, not used to service, the whole regular force together not exceeding two regiments, amounting to 700 men.

Lord Wycombe.

Lord Wycombe [Earl of Shelburne] repeated his entire approbation of General Carleton, as an officer, but he said he had done many things for which he believed he or his principal would be made answerable. That he should not now trouble their Lordships on that head, but he hoped that the day was not very far distant, when the matter would be fully cleared up. As to the want of force, or want of discipline, the general could not help that, it behoved those only who neglected that service to answer for his want of success.

The question was put on the Duke of Manchester's motion for postponing the bill till after Christmas, but it passed in the negative without a division.

Lord Chancellor.

The Lord Chancellor moved the order of the day, but before the chairman [Lord Scarfdale] had taken the chair, the Duke of Manchester acquainted the House, that he had a petition from the merchants of Bristol against the bill. His Grace observed, that he did not know whether it was consonant to the orders of the House. He in the mean time read the heads of the petition in his place, which describes the various ruinous consequences of the bill, as respecting the merchants of that town concerned in the American trade.

The

The Earl of *Sandwich* to the matter of order; said no motion E. of *Sandwich* could be received while the order of the day was before the *House*; that, besides, he believed there was no occasion for particularly attending to the contents of the petition, as he meant to offer a clause which he believed would, in a great measure, remedy the grievance stated in the petition.

The House then went into a committee of the whole House, on the bill; when several amendments were made, and clauses offered.

The Earl of *Sandwich* offered a clause to protect all vessels E. of *Sandwich* and their cargoes, if two-thirds thereof should appear to be long to British subjects.

The Earl of *Dartmouth* offered an amendment to the pream- E. of *Dartmouth* ble and the concluding clause, to ascertain and shew that the power of pardoning vested in his Majesty by the bill, was inherent in him, and only given here to answer a particular purpose.

The Earl of *Sandwich* offered another clause in favour of the E. of *Sandwich* West-India islands.

The bill being gone through, Lord Scarisdale left the chair, and it was ordered to be reported to-morrow.

December 19.

The American prohibitory bill reported. No debate.

December 20.

Order of the day, the third reading of the American prohibitory act.

The Marquis of *Rockingham*. I have a petition in my hand to Marquis of present to your lordships from the merchants of Bristol, com- *Rockingham* plaining of the hardships they are likely to suffer, should this bill, in its present form, pass into a law. I do not mean to oppose the bill in this stage, but purely to explain a matter relative to the object of this petition. When this petition was offered to be presented in the committee by a noble Duke now absent, [Duke of Manchester] the noble Earl over the way [Lord Sandwich] rose and observed, that he had a clause which would entirely obviate the apprehensions expressed in the petition. The noble Duke, on this assurance, acquiesced; but it has since been discovered, by the friends of the petition, that the amendment proposed by the noble Earl, and agreed to by your lordships, by no means comes up to the idea or wishes of the petitioners. It is on that account, therefore, I would recommend to your lordships, before the remedy be out of your power, to bestow some attention to the clause, and as you have declared a desire to relieve the

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merchants,

merchants, in every respect as far as is consistent with the principle of the bill, by giving the clause a review, you will then have it in your power to determine whether it might not, with great propriety, still be permitted to undergo further alteration. The amendment I allude to is that which fixes the time for ships not immediately coming within the description of this bill, from the first of January to the first of August. As the restraining bills of last year permitted the importation of lumber, and other commodities, from America into the West-India Islands; and as by this bill provisions are made, which entirely alter the nature of that indulgence, and annex different conditions, what will be the consequence, but that goods shipped under the faith of the two restraining acts, will be liable to confiscation and seizure, as not knowing that the law has been altered by the present bill? To remedy this evil, this unprecedented hardship and injustice, what I would suggest to your lordships would be, to change the commencement of the operation of this bill from the 1st of January to the 1st of March, by which means the people and merchants concerned in the West-India trade will have timely notice of the alteration made by this bill, and, by that means, will have it in their power to prevent the confiscations and seizures which must otherwise be the inevitable consequence of their ignorance and want of information.—On the whole, my lords, if any relief be really intended to be given to the trading and mercantile part of this country, no possible objection can be raised to the indulgence now desired; if not, and that the property of the merchants, planters, and others concerned in the West-India trade, is to be confiscated, contrary to the faith of two solemn acts of Parliament, the effects of such a procedure must be indeed terrible; and the innocent, as well as guilty, will then have good cause to be alarmed; finding themselves suffering under the pressure of such a weight of power, breaking into acts of the most wanton violence, and most unjustifiable oppression.

Earl of Suffolk.
folk.

The Earl of Suffolk. It is somewhat extraordinary that this bill should, in this stage, meet with an opposition, after having been so fully before debated, and every possible objection to it fairly and fully obviated. For my part, I think dispatch is now become necessary; and, for that reason, I shall not be for admitting any farther delay.—As to the petition the noble Marquis now offers to present, I take it to be entirely irregular. His lordship should have offered it before this

this bill was read a third time. The question now before your lordships cannot relate to any particular clause or amendment in the bill; those are already decided on. The question now is, the bill being already read a third time, whether the bill shall pass.—Here the Lord Chancellor proceeded to put the question, and the Marquis gave the petition to the clerk to hand to the chair.

The Lord Viscount *Weymouth*. The question cannot now ^{Lord Vis. Weymouth.} be postponed, though we were ever so desirous. It is therefore, in my opinion, totally irregular, in this stage of the bill, to offer any matter whatever, but what may go to its total rejection. The matter now urged should have been offered on the report. It is now too late, and consequently I shall be for having the question now before the House strictly adhered to.

The Earl of *Sandwich*. I differ extremely from the noble ^{Earl of Sandwich.} Marquis in the construction of the clause alluded to. No bill ever passed both Houses in a more deliberate manner than the present. It was very maturely considered and debated in the other house. That House shewed every possible inclination to render it as palatable as was consistent with the principle of it; and admitted several alterations, in order to render it innoxious to all those against whom it was not immediately directed. I took the liberty to propose some amendments myself, to render it still less liable to any objections which might be made by such as imagined their property to be affected; yet, after all this candour and concession, to come in this stage to offer fresh clauses and amendments, is, I confess, my lords, what I did not at all look for or expect. I am clearly of opinion, that if the amendments suggested by the noble Marquis were to take place, it would, in a great measure, totally defeat the intentions of this bill, because, the notice given by the amendment, would enable all the parties to ship such quantities of goods under that indulgence, that every substantial operation of the bill would be prevented. If, however, any captures or seizures should happen, on account of the ignorance and want of information of any of the persons actually concerned, it will be a good ground for obtaining such redress as the nature and circumstances of the case may deserve; but for making any amendment, which might open a door for collusion, or for evading the principle or different provisions of this bill, I must fairly own, I am totally against it. Besides, if the reasons for the proposed amendment of the noble Marquis were

much

much stronger, or would be productive of the consequences I have pointed out; yet, by the established rules and orders of this House, it is now too late to make any motion for altering or amending any of the clauses of the bill.

Earl of
Shelburne.

The Lord Wycombe, [Earl of Shelburne]. The indulgence your lordships shewed me on a former occasion, would have prevented me from again troubling you on the subject. I should have thought myself precluded from opposing it in this stage, after having so fully expressed my sentiments on the second reading, if I had not looked upon myself called to inform your lordships of a particular circumstance, which has come to my own knowledge, as well as to state an objection or two to the bill, which did not occur to me when first I delivered my sentiments on this subject.—The fact of which I am to inform your lordships is, that a merchant, whom I never saw before, applied to me, and told me, that a great number of vessels were now loading, under the express provisions of the restraining act of last year; that the persons, owners and proprietors of those vessels and cargoes, would be liable to have them seized and confiscated: This he represented as a grievous hardship, as the merchants in America, Great-Britain, and the West Indies, were brought into this very predicament, by the reliance and confidence they had in a British act of Parliament. I told the gentleman, he would have acted much more properly, to have applied to your lordships for redress: but I nevertheless thought it my duty to mention it, as a matter well deserving your lordships consideration. On a former occasion, I spoke very fully to this bill; but I cannot avoid mentioning one part of it, the concluding clause, which authorizes the crown to delegate to others the power of pardoning; and I understand, since I last delivered my thoughts on this subject, an amendment has been made to the bill, to prevent any doubt which might hereafter arise by the penning of the clause, of such a right being inherent in the crown. I have, my lords, consulted several very able and respectable lawyers on the subject, and not one of them has acceded to the doctrine in its full extent. I have looked into several great authorities, as they lie scattered in books, concerning this doctrine, and not one of them come up to the language of this bill. One of them in particular lays great stress on the statute passed in the reign of Henry the Eighth, which takes away this delegated power from the Lords Marchers, and vests it for ever solely in the crown. In short, after the best enquiries

ries I have been able to make, I am not satisfied that this claim of delegating the power of pardoning in the lump is at all inherent in the crown. Some are of opinion, that this power may be given by his Majesty to individuals, others in the lump, others in America only; but *not one*, that it is inherent in the crown generally and unconditionally. Informed as I am, I speak with all possible diffidence on a subject of such a nature, and with all possible deference to the judgment of the noble and learned lords present, who declared when this subject was last under discussion, clearly in support of this power; but yet, after all, I trust the noble lords will excuse me for expressing a wish, that a point of such magnitude, a legal question involving in it such important consequences, were not hurried till an opportunity were given to consider this matter more fully, at which time a noble lord, whose state of health will not permit him at present to attend, [Lord Camden] may probably be able to deliver his opinion, and this House, and the nation at large, be satisfied that an improper power is not vested in the crown by this bill. The Greeks and Romans had some wars of the kind that is now carrying on against America by this country. They never gave them the name of rebellions, nor acted against them as alien enemies. The latter, in one of a similar nature, called it the social war. I call this a constitutional war. I say this war is fraught with innumerable mischiefs. Instead of exacting obedience, it declares nothing but a wish for separation; it meditates open destruction, not coercion. It goes not to the punishment of rebels, and the protection of the innocent. It is made contrary to every rule observed in commotions of this kind. Instead of being directed against individuals, who are the supposed authors of this rebellion, it is carried on as if against foreign enemies; war is made on the community at large. In fine, the principle of the bill is to punish the innocent, as well as the guilty. But if the principles of the bill be bad, the provisions of it are still worse. To carry it into execution, what are you to do? The framers of this bill, in order to stifle and hide the fixed aversion the people in general entertain for the service, have provided that the plunder shall be shared among the captors, by way of encouragement. What is this but sacrificing the merchant to the seaman? Again, the glaring cruelty and injustice of such a procedure, have induced the friends of the bill to admit some clauses, in order to soften the unexampled rigour of the hardships complained of.

of. Thus the seaman in turn is sacrificed to the merchant. In such a state of uncertainty, what are we to conclude from this heterogeneous mixture of indulgence and severity, by which the merchant is neither sure of his property, nor the seaman of the produce of his capture, when all will be law, litigation, and confusion? It directly calls to my memory the story relative to Sir Charles Wager, alluded to in a former debate by a noble and learned Lord near the table, [Lord Mansfield] who after taking a very valuable prize, and having her condemned, when the balance came to be struck, he found himself a considerable loser. On the whole, I think the principle of the bill wrong, the provisions absurd, oppressive, cruel, and contradictory, and the measure taken together, to the last degree, hasty, rash, unjust, and ruinous.

Lord Mansfield.

The Lord *Mansfield*. I did not come prepared the last day this bill was under consideration to speak to it, though I delivered my sentiments upon some particular matters which happened then to come into discussion; nor should I now trouble your lordships, did not I think myself called upon to assign my reasons for assenting to it. The noble lord says, this bill is hasty, rash, ruinous, and unjust. I shall beg the patience of the House, while I endeavour to exculpate myself from that part of the censure which may be presumed to fall to my share, as giving it my support arises from the fullest conviction of its utter necessity in the present state of things. Before, however, I speak to the principle of the bill, I shall explain one matter, which has been frequently mentioned. It has been objected, that one of the clauses of this bill has a retrospective view, as it legalizes all seizures made before the passing of this bill. This, my lord, is not unusual; it has, indeed, been the constant, uniform practice in such cases. It is founded in justice; because if such seizures were made wantonly, or without cause, and not upon the only ground on which they can be fairly defended, that of manifestly advancing the public service, the clause in this bill will not protect or indemnify any act of that kind. Besides, what is the true legal construction of this clause?—not, surely, to seize the property, and confiscate it. No, only to defend the actors against personal actions, the persons complaining being still left at full liberty to pursue their remedy at law, in order to recover their property, or the value of it. It would, indeed, were it otherwise, be impossible for officers in high command to act, if for measures taken for the good of the state, they should be liable afterwards to be ruined

by the almost infinity of suits that might be instituted against them, when the commotions were over, and every thing returned into its former tranquil state. The noble lord seems to doubt of the right of delegating the power of pardoning to be inherent in the crown; for my part, I am perfectly clear it has from the first establishment of the monarchy. General Gage exercised it on a late occasion, where, by proclamation, he promised pardons to every man in America, but one or two individuals. It has been always the practice. Every general of an army, acting against rebels, is vested with this power. Indeed, I believe, there never was a rebellion in this country, or its dominions, in which this power was not actually exercised. The rebels taken in 1715 at Preston, claimed it as an agreement, as the terms of capitulation. It was not granted; but the power was never disputed. A night or two ago I was reading the Register, a book of the first law authority extant. It is full of original writs. So early as the reign of Edward I. I find this doctrine of pardoning in the lump fully confirmed. I found there a *dedimus potestatem*, directed by that King to certain persons therein mentioned, to pardon all the people of Galloway. Was not this pardoning in the lump? Was not this pardoning a whole community? As to the original matter that gave rise to this bill, I always was of opinion that the people of America were as much bound to obey the Acts of the British Parliament, as the inhabitants of London and Middlesex. I always thought, that ever since the peace of Paris, the Northern Colonies were meditating a state of independency on this country. They have told you as much in one of the publications of the Continental Congress, wherein they thank Providence, in inspiring their enemies with the resolution of not attempting to carry their schemes of dominion into execution, till they had arrived at a growth and strength sufficient to resist them. I have not a doubt on my mind but this has been their intention from the period I allude to. Whatever might be their wishes before that time, their situation rendered it impracticable, because it was this country that could alone protect them against the power of France, to which their whole frontier lay exposed. But allowing that all their professions were genuine, that their inclinations were those of duty and respect towards this country, that they entered into the present rebellion through the intrigues and arts of a few factious and ambitious men, or those who ultimately directed them; that the stamp act

was

was wrong, that the declaratory law might assert the supremacy over that country, but it ought never to be exercised, nor amount to more than such a power as his present Majesty claims over the kingdom of France, a mere nominal dominion, that no troops should be sent into that country, even to defend them, without their own permission; that the admiralty courts should never be made to extend there, though by the trial by jury, the parties themselves would be judges; that offenders against the laws and authority of this country should be tried for offences by persons who themselves were ready to declare they did not think the charges criminal; that no restraints should be laid upon their commerce, though that great bulwark of the riches and commerce of this country, the act of navigation, depended on such restraints; that every measure hitherto taken to compel submission to the parliamentary authority of this country, was cruel and unjust; that every ministry in this country were tyrannic and oppressive, and that the last is worst of all. Yet admitting all this to be true, my lords, what are we to do? Are we to rest inactive, with our arms across, till they shall think proper to begin the attack, and gain strength to do it with effect? We are now in such a situation, that we must either fight or be pursued. What a Swedish General said to his men, in the reign of Gustavus Adolphus, just at the eve of a battle, is extremely applicable to us at present: Pointing to the enemy, who were marching down to engage them, says he, "My lads, you see those men, yonder, if you do not kill them, they will kill you." If we do not, my lords, get the better of America, America will get the better of us. We do not fear, at present, that they will attack us at home; but consider, on the other hand, what will be the fate of the sugar islands; what will be the fate of our trade to that country. That, my lords, is a most valuable important consideration; it is the best feather in our wing. The people of America are preparing to raise a navy; they have begun in part; trade will beget opulence, and by that means they will be enabled to hire ships from foreign powers. It is said, the present war is only defensive on the part of America. Is that the case? Is the attack on Canada, or the attempt on Halifax a defensive war? Is the prohibiting all trade and commerce with every other part of the dominions of the British empire, with Ireland, for whom they express such friendly sentiments, is starving the sugar islands, acting on the defensive? No; though those people never offended,

nor

nor oppressed us, we will distress them (say they) because that will be distressing of Great-Britain. Are we, in the midst of all the outrages of hostility, of seizing our ships, entering our provinces at the head of numerous armies, seizing our forts, to stand idle, because we are told this is an unjust war, and wait till they have brought their arms to our very doors. The last Dutch war was generally understood to be unjust; yet that did not prevent us from repelling the invaders, when they came up to burn our navy at Chatham. The causes of the late war were much condemned, but that did not prevent us from pursuing it with vigour. Indeed, the nature of all war is such, it ought to be carried on with vigour, till the objects which caused it are either obtained, or abandoned as unattainable, or not worth pursuing. Neither, I trust, is the case in the present instance; I do not therefore consider who was originally in the wrong; we are now only to consider where we are. The justice of the cause must give way to our present situation; and the consequences which must ensue, should we recede, would, nay must, be infinitely worse than any we have to dread by pursuing the present plan, or agreeing to a final separation. On those, as well as many other considerations of great weight, I beg leave to differ from the noble Lord who spoke last; for I am satisfied this bill is neither hasty, rash, ruinous, or unjust.

There was no division.

Ordered, That the trial of the Duchess Dowager of Kingston be on the 28th of February next in Westminster-hall.

December 21.

Private business.

December 22.

Bills received the royal assent. Adjourned to January 23, 1776.

January 23, 1776.

Private business.

January 24.

The same.

January 25.

As the scaffolding in Westminster-hall, for the trial of the Duchess Dowager of Kingston, could not be prepared, on account of the term, time enough for the trial on the 28th of February, the order for the trial was altered to the 15th of April.

January 26.

Private business. Adjourned to the 29th.

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January

January 29.

The same.

January 30.

Decollation of King Charles I.

January 31.

Private business. Adjourned to February 2.

February 2.

The same. Adjourned to the 5th.

February 5; 6, 7, 8, 9.

The same. Adjourned to the 12th.

February 12.

The same. Adjourned to the 15th.

February 15, 16.

The same. Adjourned to the 19th.

February 19.

The same. Adjourned to the 22d.

February 22.

A committee having been appointed to make regulations for the trial of the Duchess Dowager of Kingston, Lord Viscount Dudley reported to the House the resolutions of the committee. The report occasioned several short conversations. The first was, whether each Lord should have the disposal of seven or of eight tickets; seven was at length agreed to. The next was, whether the word *Peerefs* should stand in the resolution, as describing the prisoner coming to the bar, previous to her arraignment. It was observed, that the word *Lady* was first inserted, till made to give way to *Peerefs*. On one side it was insisted she was a *Peerefs*, because if she was not Duchess Dowager of Kingston, she must of course be Countess of Bristol. On the other side it was insisted, that the point in issue was, that she was *not* Duchess of Kingston, and that she herself had abandoned the claim of being Countess of Bristol. The resolution was amended, by inserting throughout the resolution the descriptive addition of Elizabeth calling herself Duchess Dowager of Kingston. Another debate ensued upon those who should be admitted to seats on the forms, at each side of the Court; the resolution said, *Peereffes*, *Peers* eldest sons and daughters, and the wives of *Peers* eldest sons. Three amendments were offered in this place: first, that Dowager *Peereffes* should be inserted; but that after a while was given up, as being included in the name of *Peerefs*: the second was, that the Dowagers of *Peers* eldest sons should be admitted; this was amended by describing them by the name of the widows of *Peers*.

Peers eldest sons; but after it was so amended, it was rejected, as not being founded in precedent: the last was, to insert Peereſſes married to Commoners: but that too was overruled, on the footing, that a Peereſſes obtaining rank by marriage, loſes it when ſhe marries a Commoner. The reſolution ſtood at the concluſion thus: Peereſſes, Peers eldeſt ſons, and their wives, and the daughters of Peers. A converſation now enſued, whether the court ſhould riſe at five, as reported in the reſolution, or whether, according to a propoſition of Lord Dudley's, it ſhould be extended to ſeven? The time fixed in the reſolution [April 15.] was agreed to. There were a great number of mere formalities reported, that are founded in precedents, ſuch as that the Lords ſhall attend in the Princes chamber to robe, go from that to their own houſe, and proceed in proceſſion to Weſtminſter-hall, all in their ſeveral degrees; the junior Barons going firſt, and the Lord High Steward laſt; the proclamations on opening the court; the returning to their own houſe to debate all queſtions, and coming back to the Hall to declare their opinion by the mouth of the Lord High Steward; the attendance of the Judges on the woolſacks; the attendance of the Clerk of the Crown, and the law officers of the crown; the Peers ſtanding uncovered, while the commiſſion appointing the Lord Chancellor Lord High Steward is reading; the Lords giving their ſuffrages, by laying their right hands on their breſts, and ſaying *guilty or not guilty, upon my honour*; the manner of the priſoner and counſel addreſſing their Lordſhips, and not the Lord High Steward; and a great many other ceremonials of leſs conſequence.

February 23.

Private buſineſs. Adjourned to the 26th.

February 26.

No debate. Adjourned to the 28th.

February 28.

The Earl of *Hillsborough* acquainted the Houſe, that he E. of *Hillsborough* had a motion to make. He obſerved, it was but a thin house, yet as the queſtion would turn on a mere point of law, he preſumed the time would not be deemed too ſhort. His Lordſhip obſerved, that in the indictment found againſt the Duchefs of Kingſton ſhe was deſcribed as Elizabeth the wife of J. A. Hervey, calling herſelf Duchefs of Kingſton. He therefore moved, that the Houſe be ſummoned for to-morrow, and that the Judges be ordered to attend, to give their opinions on the two following points; Whether Elizabeth,

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calling herself Duchess of Kingston, indicted under the name of Elizabeth, the wife of J. A. Hervey, can, under such indictment, be tried as a Peeress of this realm? or, Whether she may not move in arrest of judgment the incompetency of the court to give judgment on said indictment? Both agreed to.

Duke of
Richmond.

The Duke of *Richmond* gave notice, that he would, on Tuesday next, [March 5.] move to take into consideration the treaties lately made with the Landgrave of Hesse Cassel, &c.

[The treaties are inserted in the Commons Debates, third Volume, page 287.]

February 29.

E. of Hills-
borough.

The Earl of *Hillsborough* moved, that the petition of the Lady, calling herself Duchess Dowager of Kingston, be now read. This being agreed to, the petition generally stated, that a bill of indictment had been found against her by the grand jury of the county of Middlesex, charging her with bigamy, as being the lawful wife of Augustus John Hervey, and marrying with Evelyn, late Duke of Kingston, deceased, during the life time of her said husband; that the indictment had been brought into the Court of King's Bench; and praying, as being the widow of the said Evelyn Duke of Kingston, and a Peeress of this realm, that she might be tried by her Peers. He next desired, that the writ of *certiorari*, ordering the said indictment to be returned into the Court of King's Bench, might be read; and lastly, the order of that House, directing the said indictment and *certiorari* to be brought before the King in Parliament. A motion was made, that the indictment might be read, which occasioned a good deal of mirth, as it stated, "that the jurors appointed by their Sovereign Lord the King to enquire into the matter charged against the said Elizabeth Hervey, wife of Augustus John Hervey, had found, that the said Elizabeth did, on such a day and place, in the county of Southampton, in the 25th of the late King, marry the said A. J. Hervey; and on such a day, in the 8th of his present Majesty, in the parish of St. George's, Hanover-square, with force and arms, &c. marry the said Evelyn Duke of Kingston, her said former husband being then alive."

These formalities being gone through, his Lordship stated the general grounds of the two questions he meant, with the consent of the House, to put to the Judges. The main point on which he rested his motion was, that neither the indictment

ment nor writ of removal from the County Court nor King's Bench were properly before the House. He insisted that she should have regularly pleaded her privilege to the jurisdiction of the Court of King's Bench; that her plea should have been recorded, and the record, with the endorsement of such plea, returned by the Court before the King in Parliament. By that means the House would have had it in their power to enquire into the validity of the plea, that is, to determine the fact, whether she was or was not a Peeress; and if they should decide that she was, then to proceed to bring her to her trial. His Lordship relied much on the finding of the Grand Jury, who stated simply, that they found she was married to A. J. Hervey, and did unlawfully marry again with the late Duke of Kingston; consequently, if the bill was well found, she could not be tried as a Peeress on that indictment, because she was described therein as the wife of a Commoner, the very justice of the cause turning on the circumstance of her not being legally married to the late Duke of Kingston. In proof that the formalities stated by him were essential to the point under their Lordship's consideration, he cited the precedent in the beginning of the reign of Queen Anne, in the case of Lord Banbury, who being indicted for murder, pleaded against the jurisdiction of the Court; and his plea being recorded, the *certiorari*, with the plea indorsed on it, was returned before the King in Parliament, when the Lords not allowing the plea to be good, but refusing to decide on it in a legal manner, Holt, Chief Justice, refused to bring Lord Banbury to his trial as a Commoner, and his Lordship was discharged without any sort of trial whatever.

His Lordship besides explained the intended effect of his motion. He said it was by no means intended to defeat the trial, or elude justice, but merely to preserve the laws and usages of Parliament, and the constitutional mode of trial. He next stated the questions he intended to put:---The first was, whether Elizabeth, calling herself Duchess Dowager of Kingston, and indicted under the name of Elizabeth Hervey, wife of A. J. Hervey, could be lawfully tried as a Peeress? The second, supposing she should be tried, whether she might not move an arrest of judgment on account of the incompetency of the jurisdiction, alledging, that the indictment described her by the name of Elizabeth, wife of A. J. Hervey? The third, whether as the wife of A. J. Hervey, she could be tried as the Peeress of the realm?

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The question was put on the first of those, and the Earl of Denbigh moved the following amendment: to insert the words "since become a Peer of this House," which produced a short debate. For the amendment: contents 32, non-contents 18.

The amended question was put, Whether Elizabeth, calling herself Duchess of Kingston, indicted under the name of Elizabeth; the wife of A. J. Hervey, since become a Peer of this House, can be lawfully tried as a Peers? The question was then put, Whether the amended question should be put to the Judges, in order to have their opinion thereon? For putting the question to the Judges, contents 43, non-contents 7.

The amended question was put to the Judges, and Lord Chief Baron Smythe rose, and acquainted their Lordships, that it was the unanimous opinion of all the Judges in town, eight others and himself, that the Lady calling herself Duchess Dowager of Kingston, can, on the indictment found against her by the grand jury of the county of Middlesex, be lawfully tried as a Peers of this realm.

March 1.

Private business. Adjourned to March 4.

March 4.

The same.

March 5.

Duke of
Richmond.

The Duke of *Richmond* moved, That an humble address be presented to his Majesty, praying, that he would be graciously pleased to countermand the march of the troops of Hesse, Hanau, and Brunswick; and likewise give directions for an immediate suspension of hostilities in America, in order to lay a foundation for a happy and permanent reconciliation between the contending parts of this distracted empire. [For the address at length, see the protest at the end of this day's debate.]

His Grace apologized for the trouble he was going to give; expressed a consciousness of his own inability, and a wish that others more equal to the task, had stood forward at this tremendous crisis; a crisis which he feared would decide the fate of this great empire for ever. He lamented the absence of the Marquis of Rockingham, and the Earl of Chatham. The latter, when this nation was on the brink of destruction, rescued it from impending ruin; and not resting there, gave a lustre to our arms, and an efficacy and steadiness to our councils, never before known in the annals of this country.

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The other of them, a noble Marquis [Marquis of Rockingham] who in a season of public distraction presided at the head of the national councils, with honour to himself, and satisfaction to the nation; and though his administration was but of short continuance, had the good fortune to quit his station with a consciousness of having healed those unhappy disputes, which threatened the empire with the most serious and alarming consequences; but which have since broke out with redoubled vigour and malignity. He was aware, he said, how much he should feel the absence and consequent support of the two noble Lords, in prosecuting the business of this day; but however unequal to the attempt himself, he deemed it a part of his duty, and without considering minutely all the consequences, he should, in discharge of that duty, abandon and renounce every collateral consideration whatever; and do what he could, instead of effecting what he might wish.

His Grace observed, that the justice of the American war, the rights of the mother country, and the claims of America, had been so frequently and so amply discussed, that he should avoid, as much as possible, every fact and argument that could possibly tend to introduce those subjects into the present debate. He should endeavour to confine himself to the terms of his motion respecting the treaties, and only advert to such parts of the conduct of administration, and the means hitherto adopted in the prosecution of the war, as directly applied to them. The first ground he took was, giving a short history of the several treaties entered into with the Landgraves of Hesse, beginning with that made in year 1702, and ending with those several explanations and modifications of that made at the commencement of the late war, and down so late as the year 1761, when his Serene Highness was indemnified for the losses sustained in his Landgraviate, by that country's being frequently made by the enemy the seat of war. In this historical detail his Grace shewed, that the successive Landgraves, from time to time, rose in their demands, and still as they continued to extort better terms, they never failed to establish the former extortion as a precedent for the basis of the succeeding treaty, always taking care to make some new demand on this country. This he insisted was the case of the present. The preceding treaty to a subsidy added its continuance to a certain period. The one now under consideration doubled the subsidy. His Grace then entered into several computations on the different heads of pay, levy money, subsidy, victualling

tualling and transport service for the troops, which he affirmed would amount to 1,169,000*l.* and that this, with transport service for the victuallers, would make 1,230,000*l.* and if the other articles under the head of contingencies, &c. were included, the expence of which could not be now ascertained, he had little doubt that the whole, taken together, would be full one million and a half. He contended that this was a most enormous sum for the assistance of only 17,300 men, an expence, he would venture to maintain, considering the number to be employed, not known in the history of mankind. Those matters, however serious in the present miserable state of our finances, and the enormous load of public burdens we groan under, were not, he said, what pressed so forcibly on his mind. It was the tenor of the treaties, the ambiguous terms they were worded in some places, the dangerous precedents they established or glided in, that principally called forth his attention, and gave rise to his fears. He observed, he said, with grief and the best founded jealousy, that an over-ruling *influence* had for some years past pervaded our councils; that this influence had been exercised in effecting measures of a most dangerous and dark complexion; that it sometimes made its approaches by stealth, at other times rendered itself visible in open day, and proceeded to acts of violence. Hanoverians had been brought into the dominions of the British Crown, without consent of Parliament. An attempt was made to introduce a body of foreigners into Ireland, which miscarried. He understood that the same attempt would be repeated, though he did not pretend to authenticate it as a matter of fact. And if any doubt remained, the present treaties afforded ample matter for great and serious alarm. In the first place he observed, that they were formed on no sound principle of alliance or reciprocal support. It is true, they were said to be formed on the basis of mutual succour and support, but those expressions imported nothing; they were mere words of course. It was a downright mercenary bargain, for the taking into pay a certain number of hirelings, who were bought and sold like so many beasts for slaughter. There was no common interest which mutually bound the parties; and if there was, the conduct of the foreign Princes was the most extraordinary that was ever known. They were to be subsidized. They were to have levy money. They were to have a double subsidy. Their corps were to be kept up complete. They were to be paid till the troops returned to their re-

spective countries; and the subsidies were to be continued, according to the tenor of the respective treaties, one or two years after the troops ceased to be of any service to us. But taking it on the other ground, that the treaties were formed on the true basis of alliance, what would be the consequence? That if any of those powers were attacked, or should wantonly provoke an attack, for the engagement was left general and unconditional, we should give them all the succour in our power. Thus, for the assistance of a few thousand foreign mercenaries, we are not only to pay double, but we are to enter into a solemn engagement to exert our whole force to give them all the succour in our power, if the Landgrave or Duke shall be attacked or disturbed in the possession of his dominions. His Grace begged next to recall to the memory of their Lordships, the language held by the friends of the present measures towards the close of the late war. He said a very ingenious gentleman [Mr. Mauduit] at that period wrote a pamphlet, entitled "Considerations on the German war," in which he introduced several computations of the cost of every French scalp to this nation; and made it amount to ten thousand pounds per head. He therefore recommended to the noble Lords, who then approved of that gentleman's estimate, to consider what an American scalp would cost, when 17,000 foreigners would stand us in at the rate of one million and a half *per annum*. He observed, he had many noble Lords in his eye, who professed themselves of that opinion. One noble Lord, now absent from his place, [Lord Bute] made use of the very arguments here adverted to, in debate. And a noble Duke now deceased, [the Duke of Bedford] maintained the same opinions. He remembered a little after, when we were victorious in every quarter of the globe, when all we wanted was money, and all we had to contend with was climate, to prevent us from possessing ourselves of the whole of Spanish America, the same two noble Lords, and their friends, justified the peace on no other ground but our inability to raise new taxes. They allowed that conquest was certain; but that the national debt was enormous. Where then was the material change of circumstances, after the conclusion of the present campaign, when the debt, which was after a thirteen years peace, not reduced above seven millions, where the conquest was not certain, and where if it were, it would be a conquest over our own subjects, operating to our own ruin, unaccompanied by either fame, or advantage? Would not

we then, as at the close of the late war, be in a situation, when even to prosecute certain conquest would be the height of folly and political frenzy?

His Grace remarked on the danger of keeping a body of 12,000 foreigners together, under the absolute command of one of their own generals; of the possibility, though he should consent to serve under a junior officer, of his arriving to the supreme command; and of the confusion which might be created by a difference on this head, between the foreign general and the commander in chief. He laid great stress on that passage in the Hessian treaty, in which it is provided, article 9th, that his Majesty shall make use of this body of troops by land in Europe whenever he shall think proper. He said he could not see what operations they could be employed in, unless it were in this country, in case of a rebellion or a revolt, which none foresaw but the advisers of the present measures. He observed, that the foreign troops were to be double officered, which was another weighty and useless expence; that is, every company of 100 men were to have two captains, two lieutenants, two second lieutenants, and two ensigns, and so in proportion in servants, &c. So that out of the whole number, upwards of 3000 men were not to be rank and file, contrary to every rule of war, which, in a given number of men, endeavours to render the rank and file as numerous as the nature of the service will possibly allow; because it is on them that the weight of attack or defence generally rests. It is so in our own troops, and has always been an established usage, never to allow more than four officers to a corps of 100 men.

His Grace made some observations on the supercession of the several officers in the naval and military departments, in which he maintained, that nothing like it had ever happened in the British service, without complaint, or without enquiry. Great faults had been found with General Gage and Admiral Graves; the miscarriages which happened were imputed to their want of conduct; yet no charge is made against them, but they are recalled. To keep up the farce, the former is received coolly, but in a few days after a new commission is made out, appointing him commander in chief; and in a few days again, without any cause even pretended, for there could be none as he remained on the spot, he is superseded, and General Howe appointed in his room. Yet that is not the best of it; Admiral Shulldham is appointed to succeed Admiral Graves; but before he could take

take possession of this command he is superseded, and Lord Howe appointed in his room. Such an extraordinary conduct was surely never known; but perhaps the superseded Admiral might think himself easy under this indignity, if what was reported was true, that he was to be created an Irish Peer. For the honour, however, of the noble Lord who presides at the head of the Admiralty, he hoped his Lordship would rise and explain this last official riddle; and fairly, and with his usual candour, inform the House, whether those arrangements originated from him, or whether he was really, as was reported, over-ruled in the cabinet.

This changing, appointing, and superseding, besides the instability it denoted, presented another matter well worthy their Lordships consideration. It shewed that the service was disagreeable on one hand, or that the superior officers were passed by and neglected on the other. He said, there were some officers of long service and tried abilities present, as well as several others of high rank in the army. He would be glad to know from them, what were the motives that induced Administration to pass by the senior officers, and devolve the command upon a very young major general. He knew that it must proceed either from an aversion to the service in them, or a total want of respect to their persons from those in power.

Much stress, he understood, had been laid on the justice and popularity of the present measures: he should not debate that subject now. It was said that the independent part of the nation were for them; but for his part he questioned the assertion strongly in the extent it was contended; for in the other House, he was informed, that the treasurer of the navy, [Sir Gilbert Elliot] and the paymaster of the forces, [Mr. Rigby] the one deriving his support and consequence from the cabinet, and the other from his party, and both deeply interested in measures, which, if pursued, must shortly be the means of procuring for them princely fortunes, were those who chiefly supported coercive measures. Those gentlemen and their connections, with the whole race of money-jobbers, contractors, &c. he believed, formed no small part of the *independent* majorities which had been so loudly echoed both within and without doors, as supporting and precipitating this country into a cruel, expensive, and unnatural civil war.

He observed, that the war, if carried on, would not only be a war of heavy expence and long continuance, but would

be attended with circumstances of cruelty, civil rage, and devastation hitherto unprecedented in the annals of mankind. We were not only to rob the Americans of their property; and make them slaves to fight our battles, but we made war on them in a manner which would shock the most barbarous nations, by firing their towns, and turning the wretched inhabitants to perish in cold, want, and nakedness. Even still more, this barbaric rage was not only directed against our enemies, but against our warmest and most zealous friends. This he instanced in the late conflagration of the loyal town of Norfolk, in Virginia, as administration had so frequently called it, which was reduced to ashes by the wanton and unprovoked act of one of our naval commanders. Such an act was no less inconsistent with every sentiment of humanity, than contrary to every rule of good policy. It would turn the whole continent, as well friends as foes, into the most implacable and inveterate enemies. It would incense our friends, and render our enemies at once fierce, desperate, cruel, and unrelenting. It disgraced our arms; it would render us despised and abhorred, and remain an indelible blot on the dignity and honour of the English nation.

His Grace stated some passages in the treaties, and commented on them very fully, where such passages explained matters which might be productive of disagreements between the foreign and native troops, and stated the omissions that had been purposely or ignorantly made, particularly in regard to a cartel for the exchange of prisoners. He said that matter had been totally passed over in silence; and if any punishments should be inflicted on those who, by the language of Parliament, were called rebels, the consequences might be dreadful. He alluded to the case of Ethan Allen, who being found in arms, was brought home prisoner, yet administration dared not bring him to a trial, even under their favourite act of Henry VIII. either because they knew that he could not be legally tried, or that they feared an English jury could not be prevailed on to find him guilty. Be that as it may, the present treaties were extremely defective in that point; and if administration were not obstinately determined to act wrong in every particular, they would endeavour to provide against the numerous inconveniencies which must arise from a want of a cartel.

He concluded, by informing their Lordships, that what he was now going to state might be deemed improper, as exposing our national weakness; but if it was essentially necessary,

cessary, he presumed that objection would be removed; and if the objection could be removed on the ground, that France was perfectly acquainted with the present state and condition of the national force now within the kingdom, that would be another good reason, that nothing respecting our means of defence should be concealed. He then said, that the whole of our military force, now within this kingdom, consisted of the foot-guards, composed of 64 companies, amounting to 2500 men, 1000 of which were destined for America; three regiments of horse and body guards, of about 1500; four battalions returned from America, with officers only, at about 100 each; ten regiments of dragoons, of 200 men each; and three complete battalions of infantry, the whole amounting, allowing for the 1000 men draughted from the guards, to about 7000 men. Supposing, then, that 3000 of those were put into the garrisons of Plymouth, Portsmouth, and Chatham, the remainder fit to take the field, after a sufficient number was left to guard London, allowing 1000 for each place, would not be above 3000; which, he contended, would be totally inadequate to any military operation, should France and Spain think proper to take an advantage of our defenceless state. He said, indeed, that a militia was to be raised, in order to supply this deficiency: but however constitutional that mode of national defence might be, he insisted that it would never answer any purpose of repelling a powerful enemy, while it continued to be so disgracefully and improperly conducted as it was at present, when unqualified officers were admitted on one hand, and substitutes on the other. Besides, though the militia had been officered and manned much better, it could not be expected that they could face a veteran army, superior in numbers and discipline. And as for the invalids, every man among them almost, fit for real service, had been already draughted; so that on the whole, the picture which such a scene of internal weakness, joined with a few ships not half manned, presented, was most dreadful. It was however necessary to bring it forward, to see if any thing could stimulate our governors to provide for our national safety, and prevent us from falling a prey to our dangerous and ambitious neighbours.

The *Earl of Suffolk*. I cannot say, my Lords, that the noble Duke who made the motion, has stated one solid objection to the present treaties, or pointed out a single instance in which our former treaties with those princes have been materially

materially departed from. His Grace has taken great pains to swell the account by several items, which, according to my apprehension, do not properly belong to it; but if they did, they would not prove a tittle relative to the comparative dearness or cheapness of the terms on which the troops have been procured. The tenor of the treaties themselves are no other than what has been usual on former occasions. The present, it is true, is filled with pompous, high-sounding phrases of alliance. but I will be so ingenuous as to confess to the noble Duke, that I consider them merely in that light; and if he will, I allow, that the true objects of those treaties, is not so much to create an alliance, as to hire a body of troops, which the present rebellion in America has rendered necessary; I will likewise give this general answer to his Grace, relative to the comparative expence, that should the war be terminated in one year, the bargain will be manifestly advantageous, because we shall pay but one year's double subsidy, which is equal to two years single subsidy. If the war should continue two years, in that event we shall neither gain nor lose, because two years double subsidy will be equal to four years single, the usual term stipulated in former treaties; and if the war should continue longer, I confess that the terms would, in that event, be disadvantageous. But, my Lords, though the terms were really as disadvantageous as the noble Duke has endeavoured to represent them, if we wanted the troops, we should have been obliged to acquiesce. The proper question is, Whether we do want them? I must declare for one, that I think we do; and as such, am happy in reflecting, that we were able to procure them on such easy and beneficial terms; for all circumstances considered, such as the very short notice, the disagreeableness of the service at such a distance from home, to be transported across the Atlantic ocean, induce me to be surprized, not that we were obliged to pay so dear for them, but rather serve to astonish me how we were able to procure them so cheap! Besides, the noble Duke seems to forget, that even on his own principles foreigners are much more proper to be employed in this war than natives; for if the war be just, of which I have no doubt, and that troops must be employed, and that foreigners can be more easily had than natives, the measure will follow of necessity, and can be fairly justified on that ground. The noble Duke, alluding to a passage in the Hessian treaty, says, that the troops being under the command of a senior officer, the supreme command

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of the whole army will naturally devolve on him, when the British commander in chief happens to be a junior officer. I do not pretend to speak from my own knowledge; but I would appeal to any noble Lord in this House, acquainted with military matters, whether the commission given a commander in chief, does not supersede any other; and whether of course a young major-general, acting in that character, will not thereby have an absolute and supreme command over every officer in that service, be his rank in the army what it may. The noble Duke says, we brought over Ethan Allen in irons to this country, but were afraid to try him, lest he should be acquitted by an English jury, or that we should not be able legally to convict him. I do assure his Grace, that he is equally mistaken in both his conjectures; we neither had a doubt but we should be able to legally convict him, nor were we afraid that an English jury would have acquitted him; nor further, was it out of any tenderness to the man, who I maintain had justly forfeited his life to the offended laws of his country. But I will tell his Grace the true motives which induced administration to act as they did. We were aware that the rebels had lately made a considerable number of prisoners, and we accordingly avoided bringing him to his trial from considerations of prudence; from a dread of the consequences of retaliation; not from a doubt of his legal guilt, or a fear of his acquittal by an English jury. The noble Duke has quoted one instance to shew that the expence of the foreign troops has been increased, because they are double officered. I do not pretend to speak directly as to the necessity of such an arrangement; but I have no doubt but it is agreeable to the usage of the Hessian service, and as such is no more than what has been agreed to by former treaties.

The Earl of *Coventry*. I do not rise to speak expressly to the present treaties, further than they relate to the measures now pursuing relative to America, which, for the reasons so often urged by me, I shall ever continue to think impolitic and unwise, and as such shall declare my hearty disapprobation of them. Not that I think the wisest or best concerted measures that were ever planned, can avert the destruction which, from the nature of the increasing power, wealth, and population of the colonies, is, in my opinion, inevitable. It is in the body politic as in the natural body, the seeds of dissolution are contained in the first vital principles of both. Sooner or later the event must happen; and the greatest stretch

stretch that human wisdom can effect, is no more than to prolong the duration of one, as the greatest care and attention, joined with the best native constitution, may do to prolong the other. If you look on the map of the globe, and view Great-Britain and North-America, and compare the extent of both; if you consider the soil, the harbours, rivers, climate, and encreasing population of the latter, nothing but the most obstinate blindness and partiality can prevail on any man to entertain a serious opinion that such a country will long continue under subjection to this. The question is not therefore how we shall be able to realize such a vain, delusive scheme of dominion, but how we shall make it their interest to continue faithful allies and warm friends. Surely that can never be affected by fleets and armies. On the contrary, instead of meditating conquest, and exhausting our own strength in an ineffectual struggle, we should vote a thanksgiving, and wisely abandoning all wild schemes of coercing that country, we should leave America to itself, and wish to avail ourselves of the only substantial benefit we can ever expect to derive from it; the profits of an extensive commerce, and the strong support of a firm and friendly alliance and compact for mutual defence and assistance. It has been my misfortune, when I have formerly spoke on this subject, to be misunderstood by a learned and noble Lord I now see in his place [Lord Mansfield]. His Lordship supposed, that I wished for a separation of the two countries, purely to convince America of her weakness and inability to subsist without us, and that with an expectation of her again returning to her former subordinate situation. The noble Lord, I have no doubt, understood me in that sense; but I trust his Lordship will do me the justice to believe that I meant no such thing. I think such an union impracticable, and I think too that sooner or later a formal separation must take place. In such an event I allow, it would be the mutual interest of both countries to be connected by every tie of alliance and friendly intercourse; in short, to be united in every thing but the same government.

Earl of
Carlisle.

The Earl of *Carlisle*. I trust I shall obtain credit when I assure your Lordships, that no consideration whatever should induce me to give a negative to the motion now made, if I had not been perfectly satisfied of the necessity of the measures carrying on against America. It is not, in my opinion, a mere question of party, but involves in it the consequences of the total ruin or salvation of this country.

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If we should concede, so as to relinquish every substantial benefit which we might derive from our political sovereignty, and commercial controul over our Colonies, what will be the probable consequence, but that this country, deprived of the advantages of an immense commerce, and every thing flowing and connected with those advantages, will gradually sink into obscurity and insignificance, and fall at length a prey to the first powerful or ambitious state, which may meditate a conquest of this island? If we consider the present state and condition of several of the great powers of Europe; if we reflect on their strength and immense resources; if viewing the map we see the figure Great-Britain cuts in respect of extent of territory; if we collect the whole into one focus, and connect the ideas of their strength, and our own native imbecillity, should America be torn from us, the prospect is indeed dreadful! It is therefore, in my opinion, a measure, not only necessary to the vindication of our honour, but even essential to our very existence as a people. It calls on us to exert every power, and strain every nerve, to bring America back again to her duty, and to secure to us her subordinate dependence. On this ground, and this alone, I am warmly for the measure proposed to be rescinded by this motion. I have not a doubt of the necessity of coercive measures in the present state and disposition of America; and under that conviction, I am persuaded that the number of hands required to carry on our manufactures, the little use of new levies, at least for the first campaign, and the desire that every friend to his country ought to have for putting a speedy determination to the present unhappy troubles, united, create an evident necessity for the employment of foreigners, in preference to native troops. Besides, consider only the unwieldy bulk of this vast-extended empire, and the operations necessary, even in case of a defensive war, and determine, if it be possible, for such an inconsiderable spot as this island is, in the nature of things, to furnish numbers sufficient to carry on operations the nature of such a service will necessarily demand.

His Royal Highness the Duke of Cumberland. My Lords, Duke of
 I shall not enter into the whole field of the American de- *Cumberland.*
 bate, which has been so ably discussed by your Lordships:
 but as I have constantly opposed these oppressive measures, I
 heartily concur with the motion made by the noble Duke,
 because it is full of respect and duty to the Crown; strongly
 reprobating the misconduct of ministers, and laying the basis

for a happy reconciliation between Great-Britain and her Colonies. My Lords, I lament to see Brunswickers, who once, to their great honour, were employed in the defence of the liberties of the subject, now sent to subjugate his constitutional liberties in another part of this vast empire.

Duke of
Chandois.

The Duke of *Chandois*. The noble Duke who made the motion, has charged the supporters of the measures respecting America with favouring designs subversive of the liberties of their country. I do assure his Grace, if I thought the measures he speaks of had any such tendency, neither his Grace, nor any noble Lord in this House, would be further than I from giving or affording them the least countenance or support. It is because I am fully satisfied, that those measures are perfectly necessary and constitutional, that I have uniformly given them my sanction as a member of this House; and I will likewise add, that I am no less convinced of the propriety of the measures, than of the high integrity and abilities of those who have advised them. The noble Duke has thrown out the most unjust charges and ill-founded insinuations against the whole body of the militia. As a lord lieutenant of a very respectable county, I find myself included in the censure, and look upon my honour very materially wounded. I am certain I can answer for the corps which I have the honour to command; and have reason to presume it is universally so throughout the service, that no officers but such as are duly qualified to serve are admitted. I therefore am authorized to say, that the noble Duke is totally mistaken in his assertions, so far as has come within my own knowledge; and have a right to presume, that he has been equally mistaken, as applying to every other corps in his Majesty's service.

Duke of
Manchester.

The Duke of *Manchester*. My Lords, after the long and accurate detail given by the noble Duke, of the treaties now before the House, I will not detain your Lordships by a recapitulation of particulars; nor indeed do I think it very material to except against particulars of a treaty, where the whole appears to me greatly reprehensible; or to cavil with ministers on little articles, whilst charges of a heavier nature may be laid to their account. The information given to us in his Majesty's speech at the opening of the session, of the introduction of foreign troops into the garrisons of Gibraltar and Mahon, without the previous consent of Parliament, gave me a serious alarm. The *unconstitutional doctrine* held in this House, setting up the power of the prerogative above the

the power of Parliament, the attempt to introduce foreign troops into Ireland, without even asking the opinion of the British Parliament, all concur to bear strong testimonies, that an *abridgment* of British, as well as American liberty, would not be disagreeable to some of our present-rulers. Long has this nation survived the loss of that liberty, which was once the lot of her neighbouring European kingdoms; but, my Lords, there is at present such an indifference to serious things, such a love of ease and luxury, which gives to ministers an almost irresistible sway, that I doubt this country is very near that crisis, when she will passively surrender all those rights her ancestors held most dear. My Lords, I am not vain enough to think that I possess any power of speech to awaken to public zeal, but with your permission I will submit to you some reasons, drawn from state policy and convenience, why we should not be too eager to push on this war. My Lords, whatever was the original cause of the war, whatever were the claims of Great-Britain, or however unjustifiable might be thought the resistance of the Colonies to those claims, no impartial man can say, that in nothing has Britain been to blame. But waving this disquisition, let us consider the present situation of affairs. The events of the last campaign shew us, that the war will not be of very easy conclusion; though we allow the British troops to have been successful at the attack on the heights of Charles Town, yet was that success dearly bought, and greatly-balanced, by the loss of forts, of garrisons, I might say of *nations*. The defection from government has been total; total, my Lords; for besides the desolated prison of the British troops, the devoted Boston, and the town of Halifax, kept in awe by a large garrison, what remains to government of all the continent of America, as far as British Colonies extend? Nay, my Lords, the misfortune has spread further, the conquests of the last war, so dearly rent from France, are mouldering from us; and though we have reports, that the Provincial arms have met a check at Quebec, great part of Canada owns another master. Still are we bent to push on an invading war, against a powerful enemy, with every circumstance against us but the advantage of our fleet. Let us now consider the means we have to prosecute this war. The British troops, we find, fail not, my Lords, in point of courage, but they shew an honest backwardness to engage against their fellow-citizens. To Germany we have recourse for assistance; 17,000 German mercenaries are at last obtained;

with these and a small British army, many of whose regiments consist entirely of recruits, some of whom are of the worst description, for I have been told that even the prisons have been ransacked to augment the number, is this country to engage a nation, who are *enthusiastic in their cause*, have no hopes but in success, are united by every tie, have every stimulative to courage, that shame or ambition can give an army of brothers. The mercenaries we employ, for they may be justly called so, since that man must be deemed a *mercenary soldier who fights for pay in the cause in which he has no concern*, are a motley band of various nations, who are yet in Germany, are yet to be conveyed across the Atlantic; some will perish in the way, some desert, but I will suppose the remnant landed on the American shore—Will conquest immediately follow? Impossible to expect it. If the generals know their duty, and we have no reason to doubt it, the first employment they must have, will be to secure a post, in case of disaster, to establish a place of arms, to endeavour to form magazines. Else whence can this army be supplied with provisions? Is it from England, from the English fleet? The fleet cannot sail within the land, cannot go up the rivers; so that the army, without magazines, cannot possibly quit the coast, and great part of the campaign must be spent in preparations. My Lords, we must look upon this war as a war of conquest. It is too late to treat the Americans as rebels, that the dignity of government require to be punished; they are a powerful nation, a formidable enemy. The army must be divided, for many are the forces with whom they are to engage. Are we certain, that even the troops proposed to be employed, will not be opposed by greater numbers? Can we conceive one campaign can end the war? My Lords, there is another very material consideration, on which I will touch but gently, for I wish not to add to embarrassments: Are ministers certain they are prepared for the expences of the war? The great annual outgoings, the public debt, were at the close of the last war thought a sufficient reason for accepting a peace, certainly inadequate to the glories of the war. In thirteen years peace some saving has been made; the expence of the ensuing campaign promises to swallow up the whole of that saving. Thus, in point of revenue, are we in the situation we were at the end of the war. But we have lost the American trade, without an equivalent. The trade of the last year to supply the Spanish fleet, and the demands through Russia, will be no last-

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ing resource. The one is over, the other, I am informed, declines. The additional tax laid upon land, will, it is supposed, not pay the expence of the conveyance of the troops. If ministers should be obliged to anticipate the taxes, if the Bank should be induced to lend the assistance of their credit, if the taxes should fall short, if any unforeseen calamity should happen, might not the public credit receive as rapid a shock, as within these few years befel the India Company? In short, my Lords, the difficulties are so numerous, that one should be inclined to think some fatal evil influence confounded the wisdom of our counsellors. My Lords, I read in Holy Writ, that when Ahab, for his sins, was devoted to destruction, the host of heaven was assembled before the Lord, and the Lord said, "Who will persuade Ahab to go up, and war against Ramoth Gilead, that he may fall there? And an evil spirit said, I will go forth and persuade him. And the Lord said, Go, and thou shalt persuade him." I shall not, I hope, be thought irreligious, if I apply this allegory to the British nation. It does seem, as if in punishment for their offences, they were condemned to go and war against their brethren in America, *and to fall there*. I wish the application may not prove just, and yet, my Lords, every thing gives it the appearance of truth. No measures taken to bring the war to a conclusion; no plan effective to force the Americans to accept the terms we are pleased to prescribe; a war of detail, of partizans, that can lead to nothing but to perpetuate rancour and animosity. I am informed, by the late dispatches from Virginia, that the governor, who has long quitted the residence of his government, to hold his state aboard a cruising ship, has had the notable success of firing the town of Norfolk, the largest in Virginia. I make no doubt he has a commission for what he does; I do not mean his commission of governor, for that is a commission to protect those over whom he is appointed to preside; but a commission to destroy, to burn the towns, to ravage the plantations, drive off the slaves, to kill those that resist. These are the warlike achievements of the Governor of Virginia. But as I do not doubt he has orders for what he does, far be it from me to condemn an absent man. But I cannot think well of those who from hence command this wanton ruin, this unnecessary ravage, this useless desolation. My Lords, I must farther take notice of one extraordinary particular, that this town was supposed to contain many friends of government; and yet such is the *determined vengeance*,

geance, that even friends are fired upon, in hopes of hurting the enemies intermixed, and all are involved in one complicated destruction. Can ministers think, that after this proceeding, one friend to government will remain in America? Can they expect, that any one, blessed with common sense, will espouse their cause, when they do not protect those who mean obedience? My lords, I am for these reasons a hearty supporter of the noble Duke's motion, and particularly because it leads to that peace, that all must allow desirable. I am the more earnest, as I am convinced it is still to be attained. Provoked as the Americans have been, they wish for reconciliation. They dread to be forced into independency. They would even buy that peace, not at the price of their liberty, that must be secured to them; their purse and property must be their own: but I have good grounds to think, could they be certain of being dealt with by people who were sincere, whom they could trust, they would submit to all necessary regulations of commerce; nay more, they would assist the state with a revenue, but they must raise it themselves; they must not be taxed from hence. My Lords, when men are in such a disposition, I will add no more, but that if we blindly reject them, we do not know the value of that people we thus for ever wantonly cast from us.

Earl of
Effingham.

The Earl of *Effingham*. My Lord, I shall take up much less of your Lordship's time than I expected to do, on the exorbitant terms of the treaties. As the noble duke, who moved for the address, has already sufficiently proved the unreasonableness of them. I shall only make one observation on the subject, which is, that if these 17000 men have the effect we are promised they shall, of subduing the Americans in one campaign; their pay, together with the subsidy, and the excess of the levy-money, above what is ever allowed in England, would furnish the pay and cloathing of 40,000 men with their proper officers.

On the legality of these treaties I shall trouble your Lordships a little longer.

The first and most striking point is, the administration of justice being reserved to a foreign prince, within the dominions of the crown of Great Britain; the better to effect which, an executioner with servants, [See page 307.] is part of the Hessian establishment, to be levied by Great-Britain; and no exception, or limitation of this illegal power seems to have been thought of, even in case the civil government should be restored in America,

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The second great consideration is, the probability of a foreign general commanding in America; for though it has been said, by a noble Earl in high office, that the commission of commander in chief will entitle our young major general to the command, yet it will not, I believe, make a senior officer of spirit serve under him, though it may make him retire from the army.

But in the Hessian state annexed to the treaty, there is, besides the lieutenant and major-generals, a general commandant. How are these two *Sofias* to settle the matter? I confess it appears to me liable to great confusion.

With regard to the stipulation of assisting Hesse if attacked, it is not a just war alone which we have engaged to enter into for the protection of the Landgraviate; for, a case may happen, in which, by a decree of the Imperial chamber, the directors of the circle are ordered to march into the country, to compel the Landgrave to some act of justice or restitution, in which case, he will be, according to the eleventh article of the treaty, "actually attacked by force of arms, without "having first used open force against him who attacks him;" and we must either excuse our breach of the treaty by our ministers' ignorance of the Imperial constitutions, or else enter into a war, like that in America, not to maintain, but to subvert, the liberties of the Germanic body.

With regard to the latter part of the motion, for suspending hostilities, I should think myself unpardonably tedious, was I to go over again all the arguments which shew the inexpediency of the war.

I shall only state to your Lordships, in addition to what I and many others have said before, some information which I have received from the best authority, respecting the resources of the Provincials, and which I should think it my duty to lay before the House, even if it did not come immediately within the subject of our present debate.

The first of our great mistakes seems to be in the number of their people; when the general congress had ordered returns of the number of inhabitants in each province, an idea prevailed that these returns were to be the measure of their quotas.

It was proved at Boston that they only returned about four in five of their true numbers, and it was pretty certain that other places in New England returned still a less proportion; yet the whole number amounted to three millions and a half,
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it can therefore be no exaggeration to say that they considerably exceed four millions.

Their plan of finance is admirable for its solidity and simplicity.

In September last, the general congress issued three millions of dollars in paper, for the security of which all property in the twelve colonies stands pledged. They will this summer lay a tax amounting to about a dollar per head, which will probably bring in most of their bills, which will be again issued in payment of troops, &c.

For the convenience of the individuals, each colony will issue about half a million in smaller bills, on its separate credit, which will be issued for the provincial treasury, where the continental bills will be received and returned to the general treasury. What a different paper credit is this from what is now weighing down this unfortunate country ! How worthy is the plan of imitation, wherever the annual revenue can be made to bear any proportion to the annual expence !

In the summer of last year, the general congress fixed the price of powder and other stores, also of provisions, &c.

One hundred pounds of good powder was rated at fifty dollars or fifteen pounds currency, equal to about eleven guineas sterling ; for this the importer would receive, at his option, silver to that amount, or 2500 pounds of flour, or in proportion of lumber or other provisions ; this in the West-India islands, would fetch thirty pounds, so there is no fear of their being deprived of either their silver, or their supply of military stores. Some have doubted whether they had any silver, but they should consider, that besides the contraband trade, our army must furnish them with some millions of dollars in specie every year.

Those who doubt their meeting with foreign assistance would do well to satisfy themselves, that the agent from Madrid to Philadelphia had really no other business than to present the colleges in America with the labours of the illustrious translator of Sallust.

It is also worth their enquiry whether or no the French merchants have bought American commodities with arms out of the royal magazines, delivered at 20 per cent. less than the current prices.

Another idea has been that they wanted saltpetre. To obviate this, the general congress printed and dispersed an account of the best and simplest method of making it. In

August

August last, a saltpetre work was become a necessary appendage to a farm, and no doubt is made; but from the numbers that are now established, saltpetre will become a very considerable article of their future exports.

The management of the Indians was an early object of attention. The general congress considering what an unprincipled gang the bulk of Indian traders were, prevailed on a sufficient number of respectable men to undertake that trade. The natural event was, that the former traders were execrated, not without some reflexions on those who should have prevented, not encouraged, the abominable frauds they had been subject to.

I should now wish your Lordships to advert to your situation nearer home. The Spaniards are again armed, and France has also prepared a considerable force. May not their late misfortune at Algiers make them wiser; if zeal for religion be supposed to actuate them, is it not possible that France may convince them, that by going to Ireland they would serve both their spiritual and temporal interests. I appeal to a noble Viscount in my eye, if more than half that kingdom is not in their interest; they would be joined by numbers, the moment they land, between Cork and the Shannon; and what force have you to oppose them either by sea or land?

My Lords, I never can stand up in your Lordships presence without throwing in a few words on the justice of this unnatural war.

The principal foundation on which it rests, is an idea, which has been with much pains promulgated of late. That taxes are not *de gratiâ*, but *de jure*; that the necessity of the state gives to the legislative body a right to impose them, and that the people have no right to withhold them.

I need no other proof that these principles are encouraged by government, than that books published by persons who enjoy pensions and favours contain them, while there is no instance of any court favour being extended to any of those who have laid down other doctrines. Indeed, my Lords, the situation in which some of these libellers of the constitution are placed, decency forbids me to name: but this I will assert, that whatever doctrines others may hold, and whatever name they may please to give to their own principles, the moment I am satisfied of the truth of these arguments, I shall become a most determined and zealous Jacobite, and shall hold myself bound in conscience and honour, to go all lengths, and risk

all I hold dear as an Englishman, in attonement of having approved the Revolution and sworn allegiance to the House of Brunswick.

Earl Talbot. The Earl *Talbot*. The noble Earl who spoke last, has certainly hit off one leading feature of the Americans. His Lordship tells you, that even in the midst of their zeal for freedom and independency, they were not able to conquer their natural propensity to fraud and concealment. He tells you, that to evade the order of the Congress for supplying their quotas of men and money, they purposely concealed their real numbers. However I may differ from the noble Earl in the deduction he has drawn from this fact, I am not permitted to doubt the truth of it, as coming from a person in whose estimation and good opinion, they bear so high a place. This with me, would be the strongest reason imaginable for not trusting to their professions, when it is seriously stated; that they are to be held by no ties whatever, not even by their most sacred engagements to support a cause, which they deem essential to their very existence as a free people. They have had all along a reluctance to order and good government; since their first settlement in that country, and I am every day more and more convinced that this people will never be brought back to their duty, and the subordinate relation they stand in to this country, till reduced to an unconditional effectual submission. Let them promise or hold out what present convenience or future views of independence may suggest, believe me, my Lords, they will never give up their favourite object, till they are fully convinced, that the object is unattainable. No concession on our part, no lenity, no endurance, will have any other effect but that of encreasing their insolence, and encouraging them daily to rise in their demands. They have been obstinate, undutiful and ungovernable from the very beginning: from their first early and infant settlements in that country. They began to manifest this spirit so early as the reign of Charles the First. They disputed our right of fishing on their coasts, in the times of the commonwealth and protectorate. But was this claim to exemption acceded to on our part, or this privilege inseparably connected with sovereignty, relinquished? No; then, as now, they were treated as presumptuous and ridiculous. Indeed the principle of absolute, unconditional supremacy, was so fully established in the reign of Charles the Second, that what by some people establishes a right on our part, of partial taxation over the
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province of Pennsylvania, was at the time granted as a favour to Mr. Penn, who then had a strong personal interest with the Sovereign. Penn was a sensible penetrating man. He knew the power to tax existed in the Sovereign; he therefore got the right transferred to the Parliament, lest he or some of his successors, should suffer under a tax laid on at the will and discretion of the Sovereign for the time being. This right was first vested in Parliament at the Revolution. It was not, to be sure, a full Parliament, but a Convention, which laid a foundation for the privileges the nation now enjoys. From that time, the right has continued clearly in Parliament, in the three branches of the legislature conjunctively; so that taking the right of taxing, as derived from the Sovereign through Parliament, in the manner here described, or considering it inherently existing in the whole legislature, as part of its very essence, the effect would be the same; for still it comes to this, that the supreme power retains the sovereignty over its several subordinate members, and of course among the other various powers which it possesses, is constitutionally entitled to exercise the right of taxation, whenever the common interest or exigences of the state, may render the exercise of such a right necessary.

The Earl Temple. My Lords, I have heard with the ^{Earl Temple} greatest sensibility the very honourable testimony which has been given by the noble Earl [Earl Talbot] who spoke last, to the memory of one [Mr. Grenville] so deservedly dear to me; and I think the House is much obliged to his Lordship for the information he has given, and the new lights which he has thrown upon the question of sovereignty over America, in which the right of taxation is specially included. Your Lordships have been so repeatedly persecuted by debates on American questions; and I have so frequently given my opinion upon these questions, that I could most willingly have spared you this trouble; but with a heart feeling as warmly as mine does for the honour and interest of my country, and accustomed to view her in the highest point of glory, I cannot bear the thought of being so much as suspected to be an indolent or indifferent spectator of her unexampled distress; nor can I suffer my opinions, in so arduous and delicate a situation, to be collected from the sentiments expressed by any man, or set of men, whatsoever. I desire to stand or fall in your Lordships opinion, and that of my country, by those I deliver myself. I am still clear, my Lords, as to the right this country has to exercise its sovereignty over America by taxation. I had no hand in passing the Stamp act, in the

declaratory bill, in the bill laying duties upon tea and other commodities, in the partial repeal of that act, nor yet in the insanity of sending the tea to America without repealing the duty. From these and other causes, together with the imbecility of administration, this country is reduced into a situation so deplorable, that the wisest and honestest man in the kingdom can propose nothing that promises an happy and honourable issue. I feel that I speak in fetters; I therefore will not press arguments on either side to their full extent. The next easterly wind will carry to America what shall fall from any, and from every Lord in the House. I do not wish that the nakedness of my country and its weakness, should stand confirmed by the authority and sanction of testimonies given here. It is a time to act, and not to talk. Much is to be done, and little said. The die of war is cast, the sword is drawn, and the scabbard thrown away. With great respect to your Lordships, wise as you are, and no doubt the great hereditary council of the king and kingdom, yet allow me to say, you are not enabled to decide upon matters of such transcendent importance and difficulty, without having the fullest materials before you, which you most certainly have not. This is a question for the ministers to decide, who must be supposed to have the means of the most ample information: the execution will likewise lie with them. They have decided; and it is to be wished that they have at last some well-considered plan; not only taking into pay all the troops that can at any rate be got, but also how they can be supported, supplied, and enabled to act with effect; in short, a plan consisting of a great variety of efficient parts. If I had the honour of being in the King's council, (which, thank God, I have not) I should expect the fullest information before I could decide; but decide I would, and abide by the decision. Retired, however, as I now am, and uninformed, I have not presumption enough to give an opinion, nor do I hold myself specially called upon to do it. My country is, indeed, reduced to a deplorable situation. We are driven between Scylla and Charybdis, and it will be transcendently difficult to steer the vessel of the state into a safe port. I must be allowed freely to confess, that I have not a good opinion of the King's servants. Past experience will not justify confidence; I cannot, therefore, answer to myself, or to my country, the trusting such men, with the expenditure of ten millions; and laying the foundation of lavishing many more, our last stake; thereby accelerating that bankruptcy, which sooner or later, I fear, by adopting either mea-

measure, is become inevitable. Nor am I, on the other hand, so friendly to them, as by declaring our utter inability to reduce America, to furnish them with a golden bridge for concluding an ignominious peace, on any the most ruinous and disgraceful terms. I cannot consent to throw this once great and glorious country at the feet of America; and there humbly implore such peace as she, in her generosity and magnanimity, shall condescend to grant us. I am not yet made to the idea of hanging out a white flag of surrender. To those who lament the present most melancholy state of the Colonies, once so prosperous and flourishing, beyond the example of any others known in the annals of time, I cannot help observing, that I rejoice in the testimony, because it does honour to the government of England, under whose care and influence they had prospered so wonderfully. I do verily believe, that till the late troubles, they had infinitely less to complain of than the mother country herself; and that, separated as they are by the vast Atlantic, it was not in the nature of things, that there must not be much to complain of, though not sufficient to justify their ingratitude to the parent state. I cannot blame a determination to make peace, sword in hand; the sooner it can be had upon reasonable, safe, and honourable terms, the better for both countries. I never did declare, whether I thought it was consistent with sound policy to impose any tax upon America, and it will hardly be expected that I should decide it now. I have heard it called an unjust war; I know not who in this House have a right to call it so; not those who voted for the declaratory act; those only who denied our right of taxation, and how very few were they? * Negotiations of such importance and delicacy cannot be transacted with too much secrecy. I cannot, I own, approve of recalling your troops, and publishing the terms to which you will yield, till there is reason to be pretty well assured they, or something near thereunto, will be accepted. Infinite sagacity and discretion are necessary to the attainment of what all alike, I am persuaded, must eagerly wish. When the happy and favourable moment for conciliation shall arrive, I hope the ministers will seize it, and I sincerely wish them success. At least at such a crisis, I will not hang upon the wheels of government, and thereby render what is already but too difficult, the more impracticable. [His Lordship did not vote.]

* Only Five.

Lord Visc.
Townshend.

The Lord Viscount *Townshend*. Having at first entertained doubts relative to the claims of this country over America, I gave the subject for some time all the attention in my power. I considered the several charters. I examined the relation both countries stood in towards each other. I looked back to the infant as well as the more mature state of the Colonies; and was at length convinced that America was bound by every rule of justice, and every tie of gratitude and political obligation, to contribute towards the common support; and consequently that America, from the beginning, had been the aggressor. But, my Lords, though the right of Great-Britain to controul every part of the dominions of the crown, were to be questioned; though the charters were binding and valid, to the extent contended; still the state of things is such, as renders it impossible to look back to the causes of this war, so as to answer any wise or salutary purpose. The justice of the cause, is lost in the din of war. The noble Earl in the blue ribbon, [Earl Temple] has told you very justly, that it is now become a struggle for power; the die is cast, and the only point which now remains to be determined, is in what manner the war can be most effectually prosecuted, and speedily finished, in order to procure that unconditional submission, which has been so ably stated by the noble Earl with the white staff [Earl Talbot]. I know of no method so probable to insure success to our operations, as that now adopted. By it, we procure an immediate supply of men. Men trained to the use of arms, and of course fit for immediate service. And I have no reason to doubt, that the measures now pursuing will put an end to the war, in the course of a single campaign. This will operate doubly, in procuring the great objects we have in view: it will at once put an end to the calamities of war, and save an immense expence to the nation. A noble Earl [Lord Effingham] has appealed to me, in relation to the present state, condition, and disposition of Ireland: to which I can only answer, if any disturbances should break out in that kingdom, they must be suppressed. I do not believe they will; nor have I any reason to think such an event at all probable. His Lordship has stated his apprehensions of a French or Spanish invasion. That too, I think equally improbable. France will be cautious of making any attempt of that kind, as long as she remembers the defeat and destruction of the armament sent there under Thurot, during the late war. But supposing that the noble Earl's fears were well founded,

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in my opinion it would be an additional motive for our pushing on the war with vigour and effect; in short, to induce us to terminate it by the most powerful and decisive operations; for if it should be permitted to linger beyond the present campaign, we will have a right to expect the interference of some foreign power, who may probably avail itself of our domestic troubles, and civil distractions. The noble Duke who made the motion, has said that foreigners were attempted to be forced on Ireland, and that it has been stripped of its national military establishment. As to the last, if it be a fault, it cannot be charged on the ministry of this country. It was an act of their own Parliament; and if his Majesty had not bound himself by his royal promise, there was nothing to prevent him from sending the whole or any part of the military force stationed in that kingdom, to what part of the empire he pleased, if the exigences of affairs, or the operations of war should make it necessary. In respect to foreigners, the very state of Ireland, as represented by the noble Duke, would be a sufficient reason for his Majesty to send a body of foreigners into that kingdom for its defence, without advising with his Parliament there; for I believe the noble Duke will hardly contend, that the King with the advice of his Parliament here, or on an emergency previous to such an advice, may not send a body of troops into any part of the dominions of the British crown, for its defence and protection.

The Duke of *Grafton*. The noble Duke who made the motion has stated the whole of the business of this day in so accurate a manner, with so much precision, and so judiciously pointed to the several leading points most deserving your Lordships attention, as to leave very little for me to add. Indeed, as to the matter immediately under consideration, his Grace has totally precluded me. I cannot, however, sit down without expressing my general sentiments on this very momentous and important motion. From the first beginning of the present troubles I sedulously endeavoured to satisfy myself of the true ground and nature of the dispute, to examine the respective pretensions of the parties, to procure the best lights the nature of the controversy afforded, and to form my opinion without predilection or partiality. The effect of this conduct and those researches was, that I plainly saw the people of America, instead of being protected in their rights, and secured in their property, would be left nothing which they could call their own, because no line could
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be drawn, no boundary could be set up, to limit the extent of the claim. You could not say that supremacy shall exist for such and such purposes, and shall be restrained in its exercise in such and such cases; because the very instant you set limits to its right of taxation, you would annihilate the principle on which that right is founded, and would consequently leave the question as open and undecided as ever. Taking it in the other light, that unconditional supremacy, in the mode and extent laid down by the noble Earl with the white staff, was of the very essence of government, similar difficulties, though arising from a different cause, presented themselves to my view; I mean the expediency of coercing America, and the impracticability of carrying coercive measures into effectual execution. I perceived that great allowances were to be made for a people who had been, as they thought, in the exercise and possession of certain specific defined rights for more than a century. I was convinced of the cruelty and bad policy of wresting those rights from them wantonly, and without any apparent cause. I evidently perceived the wildness and impracticability of the attempt, and the insurmountable difficulties which stood in the way of a project so big with folly and injustice. But let me go one step further, and suppose that the expediency and practicability were equal to the presumed justice of the cause, ought we not to look to our own abilities, to our resources, and compare the inconveniencies which must result from these measures, with the advantages we propose to obtain? I am tolerably acquainted with the finances of this country, and I do most solemnly assure your Lordships, that I do not know a single tax which it is in the power of the most fruitful invention to devise or conceive, that would encrease the receipt at the Exchequer. Every tax that can possibly be thought of will interfere with some other already in being. The nation is loaded to the full extent of its abilities; and what are you going to do? You are entering into a war, the success of which is problematical at least, if not improbable. To carry on this war new taxes will be necessary; and having no security to give, the consequence must be, that you will be obliged to pledge the old funds, contrary to public faith and the security of the public creditors; or you will be compelled to contract new debts, which, if the war should continue for any time, national credit will be ruined, and the kingdom be undone. This leads me to a consideration of the first importance; it is the

the general inattention and indifference to the interests of the nation, which prevail upon those to whom they are entrusted. A most alarming profligacy of manners, and unbounded love of pleasure and dissipation, have taken possession of almost all ranks and degrees of people. Ministers are trusted indiscriminately; Parliament has surrendered or abandoned its right of controul, and all the great concerns of the nation are trusted to chance, or to men by no means fitted for the arduous task of government. How do you think, my Lords, this will terminate? When the people find themselves borne down under the pressure of taxes, which they will be no longer able to pay; when public credit is no more; when public bankruptcy stares them in the face; when in consequence of such a state of things, universal ruin and despair spread themselves through every part of this island? I will tell you, my Lords: the people, no longer able to endure such calamities, and expecting no redress, where only it can be legally or constitutionally sought, will seek relief in the means which God and Nature has pointed out. They will forbear to look up to Parliament, because Parliament has betrayed them, has been deaf to their entreaties, and inattentive to their interests. It may be answered, that the present measures are the measures of the people, that they are approved of by a great majority of the nation, and that they have, in a variety of instances, and through a variety of channels, expressed the most hearty and zealous approbation. I deny the fact; but though I should allow the proofs, they are very far from combating any thing I have now asserted. If the people have been misled, or lulled into a deceitful security, it proves my argument on the ground I have taken it up. It is not on the wisdom and soundness of the measures, but on their fallacy and evil tendency, that I draw the present deductions. Besides, addresses, and the various means employed by men in power to obtain the public sanction and approbation, will never pass with me for a proof of their being the real sentiments of those to whom they are imputed; for at no time since the first establishment of the monarchy did this test of public opinion manifest itself more than during the greater part of the reign of James the Second. Addresses, congratulations, engagements to support him with their lives and fortunes, poured in from every quarter; yet that infatuated monarch fatally discovered, in the hour of trial, that they were but the mere efforts of ministerial art and court adulation. On the whole,

my Lords, considering this great question in all its different points of view, and pursuing it in all its consequences, I can perceive nothing but inevitable ruin. I contemplate it with the most pungent pain and anxiety; I turn my face from it with horror. These have been my sentiments from the very beginning, and I have uniformly acted conformably thereto. I have argued, prayed and implored that the wild, ruinous, and destructive project might be laid aside. I do now beseech your Lordships, for the last time, to bestow some further consideration on the subject. The die is not yet irretrievably cast; the sword is drawn, but it may yet be sheathed. The proposition now made to you by the noble Duke may open a field for peace and reconciliation. This opportunity once lost, I fear can never again be recovered. I would beg to recall to your Lordships recollection what fell from me in the course of the last year when in another situation, (where I unhappily stood single in opinion) that I promised to submit a plan for composing the differences now subsisting between Great-Britain and America to your consideration. Whatever has been urged by the noble Lord in the blue ribbon to the contrary, I am convinced it is not yet too late, and that all the miseries and calamities which now threaten the nation may yet be averted, if we will only, without distinction of party, undertake the performance of the arduous task with willing hearts and proper dispositions. As to the treaties which make more particularly the subject of this day's debate, they have been so amply commented on, and fully explained by the noble mover, that I should have hardly troubled your Lordships, did not I think it my duty, as applying directly to the manner in which this business of foreign treaties has been conducted on the part of administration, to express my utmost astonishment at the language held by a noble Lord high in office, in whose department, as Secretary of State, this negotiation must of course have been transacted. The noble Lord rises to declare his ignorance, whether or not a commander in chief, appointed by his Majesty, or the commander of those foreign mercenaries, should have the supreme command? Did his Lordship take upon him to negotiate this treaty, without any one official requisite to conduct and conclude it? or, has he first made the treaty, and after it is finally concluded, and made binding on the nation, does he come into this House totally ignorant whether he acted right or wrong, to receive instructions from such of your Lordships as are conversant in military affairs,

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to know whether the whole of the British dominion in America is, or is not, to be under the absolute command of a foreign mercenary, at the head of 12,000 hirelings? But supposing his Lordship should tell me, that the supreme command is vested in the commander in chief, though he be a junior officer, will he assure me, that the matter has been so understood by the Landgrave of Hesse, or that his general is apprized of it? Or lastly, will his Lordship inform me, whether sufficient provision has been made in case of death, or any other accident, to supply the vacancy with a succession of other officers, who may be eventually called to the command, by commission granted for the purpose; and that the prince and his general have been acquainted with this eventual arrangement, and have acquiesced in it? I think it proper, before I sit down, to allude to one circumstance in which I took a part, but in which I was most egregiously deceived; I mean the vote I gave respecting the Massachusetts Bay charter bill. To induce me to give that vote, I was informed, that the alteration of the charter was at the express desire of the merchants, and a great majority of the people of property and consequence inhabiting that province. I have since discovered that I was deceived; for that at the time, as well as since, the very contrary was the fact. It has been indeed the uniform practice, since the commencement of this business, to give false information, or proceed on none. I have therefore only to declare, that I would never have given my sanction to that law, if I had not been led into error by a false state of the matter; and though I unhappily fell into the snare laid for me, I am now free to declare, that the law for altering the charter of Massachusetts Bay, was in every respect oppressive, impolitic, and unconstitutional; and if coupled with the claim of taxation, I am fully justified in maintaining, that as one leaves the subject no property, the other deprives him of every natural and political right; and that they are both equally destructive of the inalienable privileges of an Englishman, and the natural rights to which all mankind are entitled, if not stripped of them by fraud, force, or injustice.

The Earl of *Suffolk*. I presume the noble Duke in the ^{Earl of} blue ribbon misunderstood what I said; for I do not presume ^{Suffolk} his Grace had any intention of misrepresenting my words. I did not say or mean, that I had any doubt whether the commander in chief, though a junior officer, had a right to

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command the Hessian general. I positively and unconditionally asserted, he had, and only referred to the noble Lords present, conversant in military affairs, in proof of that assertion. As to the other point the noble Duke alluded to, the same rule which prevails in respect of the commander in chief, will of course take place in the person who may be appointed, or happen to succeed him.

Earl of
Sandwich.

The Earl of *Sandwich*. I did not intend to trouble your Lordships on the present occasion, had not I been particularly called on by the noble Duke who made the motion; and to set another noble Duke [Duke of Manchester] right, respecting some points on which he seems to be misinformed. My noble relation has informed your Lordships, that the town of Norfolk, in Virginia, has been burnt and destroyed, and has accompanied his narrative with several exaggerated circumstances attending that affair. I will tell the noble Duke how the matter *really* happened. One of our ships of war, being in great distress for water, sailed to Norfolk in order to procure it, and applied to the inhabitants, who, instead of complying with the common dictates of humanity, fired on the flag of truce, and killed or wounded two or three of our men. This occasioned what afterwards happened, and caused the town to be burnt. I do not believe it is *yet* burnt. The inhabitants of Norfolk were so cruel and barbarous, that the whole crew must have perished for want of fresh water, had it not been for the relief they procured by the distillation of salt water. It was not the man of war's men that burnt Norfolk; it was the inhabitants themselves. I do not know that it is yet burnt. The Norfolk people set fire to the town. That is, the fire from the man of war set fire to part of it, and the inhabitants burnt the rest. The noble Duke who made the motion has entertained your Lordships a great while, relative to the appointing and superseding of officers. His Grace has done me the honour to advert to me frequently in the course of his observations. I will tell the noble Duke, that he is both mistaken in his facts and conjectures. Admiral Graves was not dismissed nor recalled; nor was there the least objection to his conduct as an officer; on the contrary, his Majesty, to shew the good opinion he entertains of his services, has appointed him a vice-admiral. As to admiral Shuldham being superseded in the supreme command, he never imagined or thought that he was to command in chief. He only succeeded admiral Graves, and as the service was to be extended and carried

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on upon a larger scale, it became necessary that more admirals than one should be employed; not that I know that admiral Shulldham means to remain on the American station. I assure the noble Duke, that the appointment of Lord Howe did not originate with me, though I think him a very able and deserving officer; I was not, however, *over-ruled* in the cabinet; for, understanding that his Lordship *wished* for the command, I was *happy* in having an opportunity of gratifying his desires, and furthering the appointment of so able and deserving an officer. The noble Duke says, that the servants of the Crown, who support the measures now pursuing against America, secretly disapprove of them, and express their disapprobation of them in private company. I do not pretend to say what company the noble Duke keeps, who so confidentially impart their opinions to him; but this I will venture to affirm, that I converse both publicly and privately with them all; and yet I never heard one of them express the least disapprobation whatever of the present measures. The noble Duke says, that though we have ships, we have not men sufficient to man them. In this the noble Duke is equally mistaken; for out of the whole complement of able seamen necessary for the twenty guardships, there is only five hundred wanting; and I will add another piece of intelligence, no less fatal to another argument made use of by his Grace, which is, that so far from the men being averse to the service, this very deficiency in the complement of the guardships has arisen from a most uncommon alacrity in the men to serve on the American station, the greatest part of those who enter chusing to serve in the fleet now destined for that country, in preference to staying at home. On the whole, the five hundred men deficient of the stated complement aboard the guardships could be procured in a few days, which with the ordinary seamen and landmen would enable the twenty guardships, that are all of the line of battle, to proceed to sea in the course of a week; and suppose any difficulty should arise, we should procure more than sufficient at the shortest notice; so that taking it in either light, we are prepared for any sudden event or emergency whatever.

The Lord Viscount *Townshend*. I believe the noble Lord Viscount *Townshend*. Duke's solicitude, relative to whom the command would devolve on, in case of the death of the commander in chief, is totally unnecessary, as I take it the next senior officer would succeed of course. I remember this was the case during the late war in America. First a noble Lord, a member of this House

House [Lord Loudon] had the chief command; afterwards General Abercromby; and though Colonel Stanwix was the next senior officer when Sir Jeffery Amherst was appointed commander in chief, the supreme command immediately vested in Sir Jeffery as a matter of course.

Earl of
Shelburne.

The Lord Wycombe [Earl of Shelburne]. An insinuation, my Lords, has been thrown out, in order to give a faction to the present measures, that a certain Earl [Chatham] whom I do not this day see in his place, has changed his former opinions respecting them; but I will venture to affirm, without any direct information on that head, that it is equally groundless and ill founded. I am sure I can answer so far as to say, that in the several conversations he has done me the honour to hold with me on the subject, nothing leading, or even tending that way, has ever escaped him: besides, his motion, and the consequent step taken by his Lordship, which remain on your Lordships' journals, put the matter beyond doubt or uncertainty. His plan, since the first commencement of this business, has been conciliation, *not* coercion. So much has been already said on the subject of the treaties, now on your Lordships' table, that I shall trouble you very little, further than to express my astonishment at a language which has been held this day, in relation to the employment of foreigners. It creates double wonder, when coming from the supporters of the present measures, against whole professed system of policy it militates in the most marked contradiction. The doctrine is shortly this; when you have any extensive operations of war to carry on, keep your own men at home employed in our manufactures and agriculture, and *trust* the *defence* of the empire, and commit the prosecution of your most essential interests to foreigners. Your country is small and insignificant, in point of numbers; the few hands you have are wanting at home; and should you employ them in war, your country would be ruined; the plow and loom must instantly stand still. Is this, my Lords, a language to be *endured*? Can this doctrine be seriously maintained in this House, without subjecting its authors to ridicule and derision? Were those the sentiments which prevailed during the late war, when we had at one time no less than 350,000 natives in actual service; and when the whole number we employed amounted to no less than 418,000 men? Will any man say that our manufactures *stood still*, for want of hands, when our imports increased full

full two millions annually, and when both our exports and imports exceeded any thing known in former times? Could we thirtcen years ago spare 350,000 men, for carrying on the operations of war, and carry on our manufactures to an extent never before known; and shall it be this day *gravely* contended, that we cannot raise a fifth part of the number, without ruining our manufactures, which consideration obliges us to apply for assistance to two paltry German states, as the only means of procuring our political salvation? Such arguments would surprize me, coming from any quarter; but much more so, from a set of men, who have uniformly condemned all intercourse with the continent, all German subsidies and German connections. I remember a noble Duke, now no more, who I looked upon to be a very able man, and a noble Earl, both of whom have been mentioned in the course of this debate [Duke of Bedford and Lord Bute] during the late war, and at the conclusion of the late peace, held it as a point not to be departed from, that this country could subsist without any alliance to the continent. I know that a noble Earl [Lord Chatham] who conducted that war, was of the same opinion: and justified his conduct by frequently declaring in private and public, "that he did not bring us to the continent; that he found us there." We all know, that this system at last prevailed; and that it has been the uniform politics of the present reign to adhere to that system. Shall we now be told, by the same men, acting up to the same rule, for more than fourteen years, that the system is a bad one; that alliances on the continent must be formed; that we have not men sufficient in the nation to defend and protect it; and that if we had, we cannot spare them, without ruin to our manufactures? His Lordship then turned his attention to the new levies, shewed how the principle of keeping up old corps established at the peace, had been departed from, by raising new corps; and how Highlanders had been recruited in London, and several parts of England, to fill up General Frazer's two battalions. He spoke of the ill treatment and resentments of the King of Prussia, and the Emperor; and of our not having a single ally on the continent, of the least consequence.

The Lord *Lyttelton*. My sentiments on the present subject are pretty well known. I shall only observe now, that lenient measures have had no other effect than to produce insult after insult; that the more we conceded, the higher America

America has risen in her demands; and the more insolent she has grown. It is for this reason that I am now for the most effective and decisive measures; and am of opinion, that no alternative is left us, but to relinquish America for ever, or finally determine to compel her to acknowledge the legislative supremacy of this country. I do not pretend to decide, in the present situation of both countries, how far it may be expedient to insist on taxes, for the purpose of raising a revenue; not but it is evident, we are fully competent to demand them, and able to compel their payment. However it is plain, when they return to a proper state of obedience, that the right is with us, and that we may exercise it according to circumstances, and local convenience. In the event of our prevailing in this contest, it is the principle of an unconditional submission I would be for maintaining; not that I would be for pushing the consequences of this doctrine to its full extent. I think the right once fully established and acknowledged, Great-Britain ought by all means to secure to the people of that country, those privileges and immunities to which every native subject of this free government is confessedly entitled.

Ld. Camden. The Lord Camden. Some allusions have been made in this debate to a fact, which has been misrepresented. It has been supposed, that the noble Duke in the blue ribbon, [Duke of Grafton] and myself, both occupying high offices in administration at the time the duties were laid on in 1767, approved of the measure. I confess, as mere matter of supposition, his conjecture is plausibly supported; but the fact, I do assure his Lordship, was entirely otherwise. I never did, nor never will, approve or give my consent to the raising any taxes, in any form, on the people of America, for the purpose of raising a revenue, to be under the disposal of the British Parliament. As for the treaties now on your Lordships' table, and the proposed effect of the present motion, I shall beg your Lordships' indulgence for a few words. If I understand them right, they contain an agreement with the Landgrave of Hesse, Duke of Brunswick, and Prince of Hanau, for a certain number of troops for certain specific sums of money, accompanied by subsequent conditions of a double subsidy to be paid, in case the war should be terminated in a shorter time than that usually fixed for the existence of subsidiary treaties. To give this bargain the appearance of what it really is not, the whole is stuffed up with pompous expressions of alliance, founded in reciprocal support and common interest,

as if these petty states were really concerned in the event of the present contest between this country and America. Now, my Lords, I would appeal to any of your Lordships, if the whole of this transaction be not a compound of the most solemn mockery, fallacy, and gross imposition, that was ever attempted to be put on a House of Parliament. Is there one of your Lordships, who does not perceive most clearly, that the whole is a mere mercenary bargain for the hire of troops on one side, and the sale of human blood on the other; and that the devoted wretches thus purchased for slaughter, are mere mercenaries, in the worst sense of the word. This point once granted, look then on the present treaties in their naked and true light. Consider seriously the consequences such a conduct on our part may probably be productive of. We not only pay dearer for these hirelings, than was ever known on any former occasion, but instead of availing ourselves of the advantages we might derive from treating with their respective sovereigns, hiring out their troops in the manner now alluded to, we have entered into treaties of alliance offensive and defensive: we have, in fact, pledged the faith of the nation, to all the eventual consequences of a continental war. But, my Lords, even this measure, hazardous and impolitic as it is, is not what presses most forcibly on my mind, in the conduct of this wanton, cruel, and diabolical war; for if the arguments be true that have been urged by several of your Lordships this day in debate, they amount fairly to this; that men are *not* to be had in this country, sufficient to give efficacy to the necessary powers of the state, nor assert the rights of this legislature; and that, consequently, the present treaties however exceptionable, are the mere creatures of necessity. I question much the truth of this argument; but supposing it to be a just one, does it not fairly prove, that the salvation of this empire depends upon foreign assistance; and that all our boasted power, wealth, and every advantage derived either from our situation or form of government, are held under that precarious tenure. In short, that we can enjoy no one blessing of external strength, or domestic happiness, longer than our worthy mercenary allies and friends on the continent think proper to permit. Now, for my part, I always was of a different opinion; for should the time ever arrive, in which our existence as a nation depended on the assistance of foreign hirelings, from that instant I should deem our consequence as a sovereign state, and our liberties as a free people, no more. The history of all ages and nations prove the fatal effects of calling in foreign auxiliaries,

iliaries, but more particularly mere mercenaries, to fight their battles; and my memory hardly furnishes me with a single instance of conquest over any great state or empire, in which the conquerors were not first introduced into the country as friends and allies. This general truth, my Lords, I allow does not directly apply to the present treaties now before you; but the principle, were the national imbecility such as your Lordships heard it described to be this day really just, ought to create cause of great and serious alarm to every one of your Lordships. I cannot better express my disapprobation of employing foreigners, particularly to fight our domestic quarrels, than by quoting the opinion of that great man, Sir Walter Raleigh, in his history of the world: He says, "that they are seditious, unfaithful, disobedient devourers and destroyers of all places and countries, whither they are drawn, as being held by no other bond than their own commodity. Yea, that which is most fearful among such hirelings is, that they have often, and in time of greatest extremity, not only refused to fight in the defence of those who have entertained them, but revolted to the contrary part, to the utter ruin of those princes and states who have trusted them."

My Lords, great stress hath been laid, in the course of this debate, on the comparative riches and strength of Great-Britain and America, from which a conclusion has been drawn in our favour, and a consequence from that conclusion, that we must in the end prove victorious. I deny the fact, the conclusion, and the consequence raised upon it. That we possess more of the precious metals than the people of America, I will readily grant; but that the materials for decorating palaces, or that administer to the luxuries or elegancies of life, are so much real riches; or that they constitute the real and efficient strength of a nation, is a doctrine I can never subscribe to. Particularly, when you have a people to contend with, who prefer real liberty to the empty shadow, and who despise those baubles and trinkets, when compared with the substantial and rational benefits of civil society, and domestic happiness. The native produce and industry of a country, I am bold to affirm, are what constitute its real opulence. The people of America have always been in possession of one, and the present inhuman and oppressive measures you have adopted, will necessarily teach them the other. The policy of former times was to improve the native advantages of the people of America to a twofold purpose; to encourage them to the raising raw materials for our own manufactures,

nufactures, or as objects of foreign commerce; and to render them as dependent as possible on this country, for all the wrought conveniencies of life. This was the inexhaustible mine, from which this country was wont to draw her resources. The immense profits derived from such a commercial intercourse, were the *taxes* we *drew* from that country; and those only ever will be, the substantial, constitutional benefits which can or ought to be derived from the legislative authority claimed by this country. What will be the consequence of this mad, bloody war? You will teach America industry and frugality. You will necessitate them to wear their own rough manufactures. You will create an emulation for excellence and improvement; and by shutting them out from your own ports, you will compel them to explore those of foreign nations. In fine, you will point out to them the advantages of a foreign commerce, of a frugal habit of living, but above all, the sweets of industry, directed to the establishment of new manufactures, and the improvement of old ones.

I would recommend to your Lordships to seriously consider the grounds of the present quarrel, and the object meant in the end to be attained by it. Has it not originated in taxation? and is it not now gravely asserted, that the tax is virtually relinquished, but that a war of conquest, or an acknowledgment of an unconditional submission on their part, is the only alternative now left? What then is the true effect of this language, but that the present is a war of conquest? For the noble Earl with the white staff [Lord Talbot] has told you, that this country ought never to recede, till America has consented to an unconditional submission; and consequently that our subjects in that country are to be reduced to a state of absolute slavery, or be for ever separated and cut-off from the dominion of the British empire.

But, my Lords, referring back to the old question of taxation, for that I look upon to be the true and efficient ground of the present contest, what does that question present to your Lordships' consideration? Why, that in the course of the present campaign, you will have run in debt ten millions, which is more than you have been able to discharge in the course of a thirteen years peace; and if all your measures of conquest should succeed, that you will probably, at the end of another year or two, be thirty millions worse than when you began, and will be in the absolute possession of a ruined, desolated country, which so far from being able to contribute to the discharge of your burdens, will become an additional

one for a series of years to come. It has been urged, that none of those consequences will happen; that America, when she perceives that we are ultimately determined, will submit; and that of course our expences will cease with the cause which gave them birth. I should think there was something in this argument, if conciliation, *not* conquest, was intended; if the claims of America were patiently heard, and maturely considered; but is there one of your Lordships who seriously believes, that those people will ever consent to lay down their arms, till vanquished, if no terms of conciliation or accommodation are held out to them? The idea is absurd and preposterous, and I am certain is not believed, or expected by those who urge it. On the whole, my Lords, I am heartily for agreeing with the noble Duke's motion, because it will afford time for administration to treat; it will give his Majesty an opportunity of putting a stop to the further effusion of human blood; it will strengthen the hands of government, should America refuse such terms as Britain may consistently offer, and America reasonably and securely accept; and it will be the means of laying on foundations of strength and security, the greatness, opulence, and perfect union of the British empire, whether considered as one body, or in respect of its several constituent parts.

Lord Vis.
Weymouth.

The Lord Viscount *Weymouth*. The noble Duke in the blue ribbon, and the noble Lord who spoke last, happened to be both in administration at the time the act was passed, which laid on the duties that were the original cause of all the present disturbances. It is somewhat extraordinary that they should now complain of their own acts, and come before your Lordships and the public to condemn measures which, for any thing that appears to the contrary, originated from themselves, or at least received their sanction.

Duke of
Grafton.

The Duke of *Grafton*. I confess I occupied a very high and responsible post in administration when the duties in 1767 were laid upon tea, paper, painters' colours and glass. I am, however, extremely well pleased to have an opportunity of explaining what yet has not been effectually cleared up. In that year, when the extraordinary expences incurred on account of America were laid before the House of Commons, the House rose as one man almost, and insisted that that country should contribute to the burdens brought on by the military establishment there; and a motion was made for bringing in a bill for that purpose. I strenuously opposed the measure, as big with the consequences it has since unfortunately produced. I spoke to my friends upon the occasion, but

but they all united in opinion that the tide was too strong to expect to either stem or turn it, so as to prevent whatever might be offered in that shape from passing into a law. Finding that all my efforts would be vain, I was compelled to submit, but was resolved, as far as lay in my power, to prevent the effect; and while I gave way, to do it in such a manner as would cause least harm: I accordingly proposed the tea duty as the most palatable; because, though it answered the main purpose of those with whom taxation was a favourite measure, it was doing America an immediate benefit; for I procured the shilling a pound duty to be taken off, and three-pence to be laid on it in lieu thereof; so that, in fact, it was nine-pence a pound saving to America. However, the attempt was received in America as I expected it would; it immediately caused disturbances, and universal dissatisfaction. In 1769, therefore, I moved in the cabinet for a repeal, and was out-voted (if I recollect right) by a majority of one. This, therefore, was the part I took in this fatal business. When the partial repeal was agreed to in council, I intréated and conjured my brethren in office to give up this paltry revenue; but, as I said before, I was overruled.

The Lord *Camden*. For my part, I was not in council, *Ld. Camden*, or did not attend in the cabinet at the time this fatal measure was concerted; and as soon as I was apprized of the tendency of it, I expressed my hearty disapprobation.

The Lord Viscount *Weymouth*. The noble Duke says, *Lord Visc. Weymouth*, he was out-voted in the cabinet, and that there are some noble Lords now present who took an active part on that occasion. The noble Duke is very right; I was present, and am free to declare, that I was one of the members of the cabinet who gave my vote for having the tea duty retained, and am not ashamed to own it. The noble Duke forgets there was no majority, or casting voice; the numbers were equal. The noble Lord's apology is the most extraordinary that I ever heard: his Lordship says, he was not present at the time it happened to be debated in council. Will the noble Lord pretend to excuse himself as a cabinet counsellor on that ground? or if he could, can he pretend to defend himself in giving his approbation and assent, and putting the question in every successive stage of the bill to a measure, sitting on that woolpack as president of this august assembly, which he has asserted in the course of this night's debate, will be the certain ruin and destruction of this country?

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The Duke of Richmond replied to the observations made on his speech; and the question being put, there appeared for the motion, contents 32, non-contents 100.

THE P R O T E S T.

It was moved, That the following address be presented to his Majesty, viz.

Most Gracious Sovereign,

WE, your Majesty's most dutiful and loyal subjects, the Lords Spiritual and Temporal, in Parliament assembled, humbly beg leave to represent to your Majesty, that it is with the utmost concern we have seen the treaties which your Majesty, by the advice of your ministers, has been pleased to enter into with their Serene Highnesses the Duke of Brunswick, the Landgrave of Hesse Cassel, and the Count of Harnau, and which your Majesty has been graciously pleased to communicate to this House.

We beg leave humbly to represent to your Majesty, the sense we entertain of the danger and disgrace attending this inconsiderate measure, when it has been judged necessary in the first exertions of Great-Britain to subjugate her Colonies, to hire an army of foreign mercenaries, acknowledging to all Europe, that these kingdoms are unable either from want of men, or disinclination to this service, to furnish a competent number of natural born subjects to make the first campaign: and it is a melancholy consideration, that the drawing off the national troops (though feeble, for the unhappy purpose on which they are employed) will yet leave these kingdoms naked, and exposed to the assault and invasion of powerful neighbouring and foreign nations.

We further beg leave humbly to submit to your Majesty, that if the justice and equity of this unnatural war was not questioned by so large a part of your Majesty's subjects, yet a reconciliation with the Colonies, though attended with some concessions, would be more agreeable to sound policy, than to intrust the prosecution of hostilities to foreigners, in whom we cannot confide, and who, when they are at so great a distance from their own country, and suffering under the distresses of a war, wherein they have no interest or concern, with so many temptations to exchange vassalage for freedom, will be more likely to mutiny or desert, than to unite faithfully and co-operate with your Majesty's natural-born subjects.

We ought not to conceal from your Majesty the anxiety we feel on the latitude of the articles in the several treaties, which stipulate the power in your Majesty of employing these
troops

troops in any part of Europe. Means are hereby provided for introducing a foreign army even into this realm ; and we cannot so far confide in your Majesty's ministers, as to suppose they would be very scrupulous in advising such a measure, since they have already introduced foreign troops into two of our strongest fortresses, and have offered to bring four thousand more foreigners into the kingdom of Ireland, without the consent of a British Parliament.

That we have moreover just reason to apprehend, that when the Colonies come to understand, that Great-Britain is forming alliances, and hiring foreign troops for their destruction, they may think they are well justified by the example, in endeavouring to avail themselves of the like assistance ; and that France, Spain, Prussia, or other powers of Europe, may conceive they have as good a right as Hesse, Brunswick, and Hanau, to interfere in our domestic quarrels. And if the flames of a war from these proceedings should be kindled in Europe, which we fear is too probable, we reflect with horror upon the condition of this country, under circumstances wherein she may be called upon to resist the formidable attack of our powerful enemies, which may require the exertion of our whole force, at a time when the strength and flower of the nation is employed in fruitless expeditions on the other side of the world.

That the treaty, by stipulating not only to give the Landgrave of Hesse Cassel, in case of attack or disturbance in the possession of his territories, all the succour which shall be in your Majesty's power to give, but likewise to continue such succour until the Landgrave shall have obtained entire security, and a just indemnification, lays this kingdom under the necessity of taking part in every quarrel upon the continent, in which his Serene Highness may happen to be engaged, and that without any equivalent consideration to make the contract reciprocal ; as this island can expect no assistance from an inconsiderable sovereignty in the heart of Germany, from which more troops are already drawn than she is able to replace for her own defence, and whose revenues are not sufficient to maintain even those she has lent without the aid of subsidy. We conceive, therefore, that this engagement of Great-Britain to defend and indemnify, must be considered as part of the price she is to pay for the hire of those troops. If this article of charges (which cannot be estimated) be added to the enormous expences of levy money, charges of making good the losses of the several corps, ordinary

nary and extraordinary subsidies, and their continuation after the troops are returned to their respective countries, and can be of no use to Great-Britain, we may say with truth that Great-Britain never before entered into a treaty so expensive, so unequal, so dishonourable, and so dangerous in its consequences.

We therefore humbly implore your Majesty to give immediate orders for stopping the march of the Hessian, Brunswick, and Hanau troops, and for a suspension of hostilities in America, in order to lay the foundation of a speedy and permanent reconciliation between the great contending parts of this distracted empire.

It was moved to agree with the said motion. Which being objected to, after long debate, the question was put thereupon. It was resolved in the negative.

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Dissentient,

ABINGDON.

PONSONBY.

KING.

FITZWILLIAM.

ARCHER.

PORTLAND.

EFFINGHAM.

ABERGAVENNY.

CAMDEN.

RICHMOND.

March 6, 7, 8.

Private business. Adjourned to the 11th.

March 11, 12, 13.

Private business.

March 14.

Duke of Grafton.

The Duke of Grafton. My Lords, before I explain to your Lordships the intention of the present motion, and the grounds on which I propose to maintain it, I shall, with your Lordships' permission, explain something which passed in this House the last day I had the honour to address your Lordships, respecting my supposed conduct, relative to the tea act in the year 1769, when it was proposed in the cabinet to procure a repeal of it, along with the other duties laid on in 1767. I am within your Lordships' recollection, that I then asserted, that when the matter was debated in council, I was over-ruled and out-voted, but was contradicted by a noble Viscount [Lord Weymouth] whom I now see in his place. Having spoken from memory, though I was certain I was right, joined to the very late hour of the night, when the matter

matter alluded to was mentioned, I declined to answer the noble Viscount, or to corroborate my first assertion, with any further facts or particulars. Being, however, uneasy till I had enquired further into the circumstances of that important transaction, I searched among my papers, and there found a note of it, sent me by a noble Lord then at the head of the American department, [Lord Hillsborough] by which it appears, that the numbers in the cabinet were not equal, as the noble Viscount asserted, but that I was overruled and out-voted by a majority on the proposition of repealing that tax, which, as I then foresaw, would be productive of the worst consequences; and which now is the occasion of the present unhappy disputes, that threaten to overwhelm this country in ruin and destruction. I thought it my duty to submit this true state of that momentous business to your Lordships, lest any of you should think that I had either negligently asserted, or designedly misrepresented it. If the noble Viscount should differ from me on the fact, as I now have stated it, I wish it may be understood, that he will rise immediately and contradict me, before I proceed further, or that his silence may be construed into an acquiescence; because I would not wish to have your Lordships interrupted by any thing which relates immediately to myself, in the future course of the debate. As to the measure now proposed to your Lordships, I trust that you will perceive the necessity of adopting it; and that you will believe me, when I most solemnly and earnestly assure you, that nothing but a thorough conviction on my part, that it, or some other measure of a similar nature, is the only possible means now left, of averting the impending destruction and ruin which seem suspended over the heads of the people of this devoted unhappy country. It is evidently formed on the principles of humanity, equity, and sound policy, and opens a door for reconciliation, and for settling the differences now subsisting between both countries, on terms of lasting amity, founded in reciprocal affection, and cemented by mutual interest. It will be the means of sheathing the sword now drawn, perhaps never again to be returned to the scabbard, should this motion be rejected, till a deluge of blood is spilt, and either Great-Britain or America, or both, are brought into such a state as may inevitably produce their separate or total destruction. I contemplate with horror, the consequences of the bloody conflict, should matters be pushed to extremities; in the event of so many thousand men being

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ing drawn up against each other, when, which ever side victory may declare, all true friends of their country, be their political sentiments what they may, will have the most just and melancholy cause of grief and mourning. I would therefore appeal to your Lordships' humanity, on this supremely critical and important occasion; and implore your interference, for the purpose of averting such dire calamities, and preventing the effusion of human blood; particularly when your Lordships shall take the additional circumstance into consideration, that victory and the most complete success on our part, will produce no other effect, than wasting and weakening our own strength; and that the blood thus shed will not be that of your natural and dangerous enemies, but the blood of your fellow-subjects, of your brethren, of Britons, of a people united with you by every tie of fraternal affection, every motive of common interest, and every principle of common defence, protection, and support.

In point of equity, my Lords, I believe, since the new doctrine of an *unconditional* submission has been broached by a noble Lord [Lord Germain] in another House; (for I affirm, till he was called to office, it was never openly avowed or maintained in either House of Parliament) your Lordships will be of opinion, that it would be but equitable to let the people of America know what are now the sentiments of this country; because, by knowing our *ultimatum*, they will then have it in their power to either agree to it, or to risque the consequences of resistance. I remember, at the opening of this session, a very different language was held. The idea of taxation was denied or modified. A noble Lord in the other House, who presides at the head of the national finances, disclaimed any such intention. A noble Lord in this House, whom I now see in his place, [Lord Dartmouth] who then filled a responsible office in administration, and who, perhaps, for the reason I am now going to assign, was not thought so proper a person to carry the designs of government into execution, repeatedly asserted and assured this House, that no intention was entertained by administration of "subduing America." I would appeal to your Lordships, if the new-adopted system has not a most unfavourable appearance, an appearance full of mischief, and big with that over-ruling secret influence, those dark and dangerous designs, which every now and then betray themselves to public view, and which create the justest jealousies and suspicions in the breast of every man who is not deaf and callous

callous to the feelings and interests of this devoted country. When I framed the motion [*See the motion, page 222*] I avoided all specifications, because I meant it as a general resolution, to be taken up and considered by your Lordships in a committee, in order, if you should think proper or necessary, you might decide on particulars, agree upon some specific terms, some *ultimatum* to be proposed to the Colonies, or you might determine on some general resolution to be communicated to the other House of Parliament for their concurrence, as a basis for conciliation or concession. By this means America might know what she had to depend on, and decide accordingly. You would remove that cause, which she assigns for her present want of confidence in general assurances, in *ministerial* promises, in *loose* and *undefined* claims, which every successive administration have explained their *own way*, and scarcely any two of the members of the present seem to be agreed in. As the doctrine of unconditional submission, avowed by the noble Lord alluded to, as the same doctrine has been since repeated in this House by persons who, though not in responsible offices, are nearly connected with those in power, another view I had in submitting the present motion to your Lordships, was to induce ministers to speak out, to say fairly whether their long harangues on intended reconciliation and conciliation, their determinations to concede in some particulars, are all forgotten, or laid aside never again to be taken up; and whether they have any measures, short of unconditional submission to propose. Should they chuse to be silent on this head, and in consequence thereof reject this proposition, I shall then understand them as perfectly and clearly as if they had spoke out. I shall then be fully convinced that unconditional submission is what they have ultimately in view; that the bloody conflict, I fear, long determined on, will follow; and that the present dispute between both countries is finally to be decided by the force of arms. Before I conclude this head, I should wish to be understood that I cannot pay the least attention to any explanation, purporting that the objects pursued by administration have been the same from the beginning; that they are still willing to sheathe the sword, and listen to the terms of accommodation. Such a conclusion is absurd and impossible in the nature of things. The speech, I allow, held out this idea; the proposition called the conciliatory proposition, framed by a noble Lord in the other House, was, it is plain, short of unconditional submission.

The bill for interdicting all commerce with America known by the name of the capture act, had a clause towards the latter end of it, which corresponded with the intentions declared in the speech. By this clause a power was vested in the King to appoint commissioners to treat with the colonies to receive submissions and to grant pardons. I was not present at the time this bill was debated on the second reading; but though the system which appears now to govern administration, was not then openly avowed, it is plain that the person [supposed to mean Lord Mansfield] who advised or framed this clause, and who, I presume, has had the chief hand in directing and advising the present measures from their commencement, by his personal influence, though not called by his office to a participation of this species of power, had a view to that unconditional submission which is now contended for. I was in the country when this act first came to my hands, and on comparing the King's speech with the clause, I must own I was astonished. What does the clause say? That commissioners are to be appointed, and that is all. What are they to do? To receive submissions. Does it state what conditions, or indeed provide for any condition at all? Have the commissioners the least shadow of power by this act, to make any concession whatever? Not one; the alternative is resistance, or unconditional submission; an eternal war and resistance on one hand, till both or either party are destroyed; or that America shall instantly disarm, surrender, and submit. On this ground, my Lords, I thought it proper to give an opportunity to your Lordships, to effectuate his Majesty's gracious intentions declared in his speech; and the great ostensible object of the capture bill, which was to coerce America by destroying her trade, if she obstinately persisted not to accept or agree to such terms of accommodation as the British Parliament, in conjunction with his Majesty, might think most conducive to the securing the claims of this country, the subordinate constitutional rights of America, and the future permanent happiness and interests of both. It is solely to obtain those very desirable objects, that I have this day troubled your Lordships. If your Lordships should not think proper to propose any *ultimatum*, this motion will have this very salutary effect; it will furnish America with an opportunity of preventing the present calamities, which they must in all events unavoidably feel, it will give them an opportunity of averting that cloud which hangs suspended over their heads and threatens them with destruction; it will be but a fair

a fair and equitable experiment, by way of warning; and if they should either refuse to offer any proposition, or tender such only as are inconsistent with the dignity and rights of this legislature, and to the interests of the empire at large, it will produce this other very important and beneficial consequence; it will unite this country in support of measures, which are far from being universally approved; and vindicate the justice and honour of the nation, not only in the opinion of its own subjects, but in that of all Europe.

As to the policy of the present conflict, I shall say very little, having before so frequently expressed myself on the subject. But I think administration should have the most full and unequivocal proofs of the disposition of foreign powers before they blindly rushed into a civil war. I have been a considerable time conversant in matters of this kind. I know the stress that ought to be laid on the language usually held by ambassadors. I know what credit ought to be given to the general assurances of foreign courts. I am convinced they are very little to be relied on, if not accompanied and strengthened by confidential engagements, and a thorough knowledge of the state and condition of those countries, from which we have most to dread: not from their pacific declarations so much as from their known inability to injure. The former may serve, nay, experience in all ages has proved too frequently, has served, only to amuse and deceive. The latter, therefore, in my opinion, can only promise that kind of security, which a wise minister will always demand before he undertakes any measure which may expose or render the nation vulnerable to its natural enemies. The powers, my Lords, which I allude to, are those of France and Spain. None of your Lordships can be ignorant that they are now collecting a great naval and military force to be employed somewhere; and I think it my duty to state to your Lordships a piece of information which I have little reason to doubt, and which, if true, must be the subject of great and just alarm to your Lordships, and point out the caution and reserve with which any general assurances received by our ministers ought to be depended on or trusted to. The information, my Lords, is shortly this; that two French gentlemen, towards the close of last summer, went to America, and had a conference with General Washington at the Provincial camp, who referred them to the continental congress, whither they immediately repaired. On the whole, my Lords, whether you consider the present measures in the light
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of humanity, equity, or sound policy, I trust that your Lordships will agree with me, that the means of conciliation are still within our reach, and that nothing but the most urgent necessity should compel us to embroil our hands in the blood of our fellow subjects, at the risk of ruining our commerce, and of involving ourselves in a war with the united strength of the house of Bourbon.

For this purpose his Grace moved "That an humble address be presented to his Majesty, beseeching him, that in order to prevent the further effusion of blood, and to manifest how desirous the King of Great-Britain and his Parliament are to restore peace to all parts of the dominions of his Majesty's crown, and how earnestly they wish to redress any real grievances of his Majesty's subjects, his Majesty would be graciously pleased to issue a proclamation, declaring, that if the colonies, within a reasonable time before or after the arrival of the troops destined for America, shall present a petition to the commander in chief, or to the commissioner, or commissioners, to be appointed under the act for preventing all trade and intercourse with the several colonies, therein mentioned; setting forth in such petition, which is to be transmitted to his Majesty, what they consider to be their just rights and real grievances; that in such case his Majesty will consent to a suspension of arms; and that his Majesty has authority from his Parliament, to assure them that such their petition, shall be received, considered, and answered."

Earl of
Dartmouth.

The Earl of *Dartmouth*. The noble Duke having alluded to me personally, makes it necessary for me to say a few words, as to my own particular sentiments. His Grace has quoted my words, in a former debate, to shew what was my then opinion, and how far administration had changed theirs since I quitted the office I had then the honour to fill. For my part, I do not at all doubt but the expression adverted to, might have fallen from me; nor do I mean to disavow it now. My opinion both then and now, was, that it was neither the interest of this country, nor the wish of Great Britain, to make a conquest of America. If that be what the noble Duke means by unconditional submission, I am sure I should be far from approving of it; but if unconditional submission be a resolution on our part, not to cease hostilities till America submits so far as to acknowledge the supreme authority of this country, I am still consistent; for I ever was, and ever shall be of opinion, that this country cannot, with propriety, concede, nor can we, consistent with the honour, dignity or
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most essential interests of this country, consent to lay down our arms, or suspend the operations now carrying on, till the Colonies own our legislative sovereignty; and by acts of duty and obedience, shew such a disposition, as will entitle them to the favour and protection of the parent state. Besides, I do not hold it perfectly fair or parliamentary, to bind a person to expressions and opinions given in one situation of affairs, when that situation comes to be materially altered. I was willing to suppose, that the disorders in that country were local, and had chiefly pervaded the hearts of an inconsiderable number of men, who were only formidable, because they possessed the power of factious delusion and imposition. I all along expected, that the *body* of the people, when they came to view the consequences closely, and consider them attentively, would soon perceive the danger in which they were precipitating themselves, and of course return to their duty. Urged by those expectations, I was anxious to treat them with tenderness, to give them every reasonable indulgence; and even to give way to their prejudices, so far as it could be done with safety. What has been the consequence? They have treated those marks of favour as so many indications of national imbecility; they have abused this lenity in proportion as it has been liberally and affectionately exercised; and they have imputed our humanity and forbearance, not to motives of tenderness and maternal affection, but to a timid backwardness and want of ability to assert our rights. The noble Duke grounds his motion on motives of humanity, equity, and policy. I will venture to contend, that neither the noble Duke, nor any other Lord in this House, is more warmly inclined to humane measures than I am. But does his Grace's motion promise to promote humanity? I am sure it does not; for if there be any thing at all in the tenderness he has expressed, or the horrors he has described at the thoughts of the effusion of human blood, the surest way to prevent a calamity, which I as earnestly deprecate as any Lord in this House, will be to send the armaments, now destined for that country, with all possible expedition. Their fears may exact a conduct, which I am well persuaded their duty or obedience would never have inspired. They will be convinced, that we have the ability, as well as the inclination, to compel them to acknowledge the true subordinate and constitutional relation they bear to the mother-country. So that uniting with the noble Duke on the principle of humanity, but differing

fering on the means, I am of opinion, that the only sure and solid way of averting the evils of civil war, and all the dreadful consequences which such a melancholy and dreadful state of things would necessarily produce, will be to send such a force as will awe the Colonies into submission; as will lay a lasting basis for the future security of the constitutional rights of that country, the supreme legislative controlling authority of this, and the general interests of the whole empire. In my opinion, every one of those objects would be defeated, should the motion now made by the noble Duke receive your Lordships' approbation. What does it import? That you shall immediately address his Majesty, that a royal proclamation be issued, to suspend all future hostilities, in order to wait the effect such a proclamation may have in America. Will not this be pursuing that plan of mistaken lenity which has been complained of as one source of our present situation? Will it not be fairly declaring that we are afraid to assert our rights; or that we are conscious of our inability to assert them? I am sure it will have that appearance; and will be so interpreted by the people of America. I would further recommend to your Lordships to consider, that although the intended force should be sent out, as I hope and trust it will, that will not preclude an accommodation; it will not prevent us from hearkening to their propositions. It may be the means of restoring the Colonies to their senses; but it will never prevent us from granting such terms as we may deem consistent with the dignity of Parliament, and the rights of the parent state. However, as the noble Duke has named his motion, and supported it by arguments which seem to imply an alternative of war, for the purpose of conquest, or unconditional submission, I would wish to move the previous question, in preference to a direct negative; and I will state to your Lordships the reason why I prefer the former, though I do not at all agree with his Grace, that a negative to his motion would shew that it was the intention or desire of this House to insist on an unconditional submission, in the exact terms he has described it. My reason is, lest such an idea should get out, and prevail either here or in America. Nevertheless, if any of your Lordships should think otherwise, I am very willing to withdraw the previous question; for whether the motion is negatived in one way or the other, if that should be the event of it, I am determined, for my own part, to give it a negative; because I am convinced it may be productive of great evil, by breaking and interrupting the line of public measures already agreed on, and can produce

produce no one good-consequence whatever, the matter of accommodation lying equally open on the grounds now explained, with or without it; while, on the other hand, should you agree to it, your Lordships would thereby virtually declare a disapprobation of the measures now pursuing against America, or confess your inability to carry them into execution.

The Duke of *Manchester*. The present state of public affairs, my Lords, whether considered in the gross or detail, *Duke of Manchester* affords sufficient reason for every man who feels for the dignity, honour, and interests of his country, to be most seriously alarmed. The very great expence with which the present measures must necessarily be attended; the uncertainty of the real disposition of foreign powers, and the present state of our navy, which I am assured, is far from being in that respectable situation your Lordships have been given to understand by the noble Lord who presides at the head of that department, all united, give just cause for considering the present question, and adverting to the dangerous consequences which may follow, in case your Lordships should be inclined to give it a negative. I am far from imputing any design in the noble Lord to either mislead or misrepresent. I am persuaded his Lordship has faithfully reported whatever came within his own knowledge; but being obliged to trust, in most of the matters which he has submitted to your Lordships, to the information of others, he has of course been liable to error; and if I have not been grossly misinformed, by professional men, his Lordship's account of the state of the guardships, the number of men aboard them, and the facility of procuring them, is indeed very far different from what the noble Lord has asserted. I am informed, for instance, that the *Eagle*, the very ship in which Lord Howe is to hoist his flag, has not above ninety able seamen aboard her, and that several of the frigates and ships of war, destined, or which have sailed for America, have either been obliged to proceed on their respective voyages very indifferently manned, or that that alacrity and ardour which the noble Lord told us of, is not founded in fact; for the men who were shipped aboard those vessels destined for immediate service, were obliged to be taken from aboard the guardships, to complete their complements, which is the very contrary of what his Lordship asserted the last day this matter was made the subject of conversation. This brings me to consider another assertion made by his Lordship, which is, that the deficiency aboard the guardships was occasioned by the desire of the

seamen to be shipped aboard the men of war destined for the American service. How could that possibly be the case, if in the first instance the complements of these last were to be made up out of the former; and if the drafts, along with the deficiency stated in the complements of the former, were now no greater than before the drafts were made? But, my Lords, I believe neither will be found to be the case. I believe the deficiency aboard the guardships will be found to be considerably greater than his Lordship has stated; and further, that the crews are composed of men, who should never be entered aboard our men of war. If I am rightly informed, small as the numbers are, that is not the worst of it; the crews are composed of landsmen, in much too great a proportion, of vagrants, and, I fear, of convicted felons. I should be glad to be set right; but if it be true, it is a most melancholy and alarming circumstance. The navy, my Lords, is our only sure bulwark against our foreign enemies; particularly as we have been obliged to part with the greatest part of our military defence, in order to carry the present proposed measures into execution. If then, in case of any emergency, an attack should be made on us in our present weak state of internal and naval defence, the consequences might be indeed dreadful. That we have no reason to rest in a state of security, my Lords, I am well convinced. I have good reason to believe that France and Spain are meditating some blow against us. The matter alluded to by the noble Duke who made the motion, I have reason to think is too true. I heard it above a month ago, and should have imparted it to your Lordships before now, had not I waited to have heard it communicated by administration. I presumed they would have informed your Lordships of the matter, and either have stated their reasons for paying it no attention, or have told you what steps they had taken in consequence thereof, in order to bring France to an explanation. I would likewise remind your Lordships, that great preparations are going on in France and Spain, both by sea and land. It may be said, that another attempt is intended to be made on Algiers; or that the disputes subsisting between Spain and Portugal, in South-America, may be the object of this armament. The former may be the case; but if the force now collecting in those countries, should be destined against Portugal; your Lordships will please to recollect what was asserted in a former debate, by a noble Earl whom I have in my eye, [Lord Rochford] not now in office, but who then occupied a high and respectable post in administration, that if

Portugal

Portugal should be attacked, we must necessarily be made parties in the war, and be bound to afford her every assistance in our power. In short, my Lords, uniting all the causes, circumstances, and probable events, which first created, or may be consequent of the present dispute, I am heartily for agreeing with the motion made by the noble Duke; and am for giving the Colonies an opportunity of returning to their duty, both as a security to their constitutional rights, and as a means of preventing the calamities every part of this empire is threatened with, in case we should persist in carrying our present ruinous, unjust, and oppressive designs into execution.

The Earl of *Sandwich*. I did not intend to trouble your Lordships on the subject of this debate, had not I been particularly called on by the noble Duke who spoke last, and who, I can safely affirm, is either materially mistaken in every fact he has stated, or has drawn conclusions which his Grace was by no means warranted, in every instance where his assertions had any ground or colour of reality to support him. I am extremely sorry that my noble relation, before he hazarded any charges of the nature now brought forward, did not consult me, as I could easily and satisfactorily have set him right, and convinced him that he had been grossly misinformed. I am pretty well satisfied, I may venture to say I know the quarter his Grace has had the information he has now stated, and so earnestly urged. The authors are known by their daily writings in the papers, by their speeches in another place, by the general tenor of their discourses, and by the motions they have made; but I will tell the noble Duke what perhaps he is ignorant of, that those men are superficial, uninformed, and that every effort they have made to disparage the conduct of that board, at which I have the honour to preside, has only exhibited proofs of their total ignorance, their rancour, and their personal spleen. The noble Duke says, he has received his information from professional men. I beg, however, that his Grace, previous to his giving trust to such assertions and such reasonings, will send those professional men to me, when I promise to convince them that they know nothing at all of the matter. The noble Duke speaks of the *Arethusa*, the *Romney*, the *Eagle*, &c. being at present unable to proceed to sea, on account of their being defective in their complements. By the last returns I have received of the state of those ships, I am authorized to say his Grace has been mistaken in point of fact in every one of them. But supposing the facts were true, what

what would it prove? That perhaps from the established usage of the service, the men were changed from one ship to another, according as circumstances made such an arrangement necessary: but will it prove the only matter that can possibly deserve discussion or enquiry, that any one ship, since the commencement of the present naval armaments and operations, has been detained a single day for want of hands? The noble Duke says, that the *Eagle*, aboard which ship the noble Lord [Lord Howe] the first in command, is to hoist his flag, stands in this predicament. Were the fact strictly true, as he has reported, I make no doubt but the popularity of the noble Lord, and the desire of serving under so able and amiable a commander, would soon procure a number sufficient to make up the deficiency the noble Duke has stated. As to the general assertion on which his Grace has insisted, that the scarcity of seamen is so great, that we have been obliged to have recourse to the expedient of supplying it by entering vagrants and convicted felons, I am sure nothing of the kind has happened; and I should be extremely averse to adopting such a scheme, or countenancing any mode of manning our navy under any circumstance of necessity whatever that might lead to the disgusting so useful and brave a set of men; besides, I think it would be very improper on many accounts; it would be the means of corrupting their morals, which, with me, shall always continue to be one of the prime objects of my care to prevent, as long as I shall have the honour to remain in my present situation. Our seamen are, in general, men of very commendable conduct, and remarkable good morals, so long as they remain on board. If they are dissipated when on shore, the consequences of their dissipation seldom reach further than spending their money in riot, &c. which has this good effect in respect of the service, that when their money is spent they return to their ships with cheerfulness, their means of living on land being at an end. What, then, would be the probable consequence, should vagrants and felons be permitted aboard his Majesty's ships of war; but that the most profligate and abandoned of their species would mix with the whole body of seamen, and contaminate their morals; render them remiss and careless of their duty while on board, and when on shore instruct them in their iniquitous modes of obtaining subsistence? All which, whether considered in a political or a moral light, or as being injurious to the service in general, are matters that ought to be carefully attended to and prevented. On this account I think the preservation of the morals of the seamen is a matter of no small consequence. I have

have been always attentive to it. I do not believe that any felons or men of notorious bad characters have been entered; I am sure if they have, it has been without my knowledge; nor should I concur in any scheme of the kind, had I been previously consulted. Taking, however, the facts thrown out by the noble Duke in another light, what do they amount to, allowing them to be true? I am within your Lordships' recollection, that I asserted in a former debate, that the full complements of the twenty guard-ships amounted to 6800 men; that there were but 6300 men actually on the books; that consequently there was a deficiency of 500 seamen; and that that number could be easily procured, or in case of actual or sudden emergency, almost instantaneously completed by a press. Do the present facts contradict what I then submitted to your Lordships on this subject? I stated a deficiency, I informed your Lordships of the facility of procuring men, of which I have had daily experience, adding at the same time, that in case of a sudden necessity of sending the ships to sea, a press would furnish me with the means of providing against any possible exigency that could arise. Though I speak of a press, I do not think we shall have any occasion for one. When I spoke last on this subject, I said I believed we should not, nor have I had any reason since to change my opinion; but I did not then bind myself to any positive engagement that press-warrants would not be issued. I am still as far from thinking that they will, but I by no means tie myself down to unconditional promise that they will not. I repeat what I have said before frequently, that nothing but necessity will oblige me, and that necessity seems as far distant as ever. I would avoid it if possible. Pressing, my Lords, is attended with great severity and uncommon hardship; nothing can be more dreadful than to tear an useful member of society from his family and his dearest connections, when probably his industry and protection is most wanted. I have often turned my thoughts to the subject, and hope in the end to be able to perfect some scheme which will render pressing of seamen entirely unnecessary. I have already had some experience that the usual mode of procuring men is most certainly defective; and while I wish to explain myself, I am glad to have an opportunity of speaking of the worth and merit of two very deserving officers; one of them a near relation to a noble Earl, whom I now see in his place [Lord Abercromby]; the gentleman I allude to is captain Hamilton; the other, captain Pownall, who, with a fortune of 100,000*l.* without any temptation to go sea, but what was inspired by a sense of duty and the justice of the cause:

cause : both those officers tendered their services unasked ; and both of them, without any application for assistance from the admiralty, procured their complements within a few days, so as to be ready to proceed to sea ; one of them, I believe, in less than a fortnight, and that purely by entering men at rendezvous-houses to serve aboard their respective vessels. Such a mode of procuring men creates a confidence and protection between the commanding officer and the seamen. The former is in some measure bound to act tenderly and humanely to the man who gives him the preference of serving under him ; and the latter will find his interest and duty unite, in behaving well under a person from whom he is taught to expect every present reasonable indulgence, and future favour. These, and some other instances of a similar nature, which have come to my knowledge, have enabled me to point out one thing that might, in my opinion, be the means of furthering the naval service ; that is, trusting less to the assistance of the admiralty board, and giving every possible encouragement to the captains appointed to the command of ships to complete their own crews. I am sure the happy effects of such a mode of expediting the naval armaments have been felt in the two instances I now allude to, as well as in some others I have forborne to mention. I have only one word more to add on this head before I sit down, and that is, to explain, on a general ground, the little consequence the deficiencies, which have been so pompously magnified, and so seriously insisted on by the noble Duke, can be of to the service. We will suppose a ship is ordered for such a service ; while therefore she is preparing, her crew may be defective ; but as soon as she is under orders for sailing, the deficiency is soon made up in the manner now mentioned, or men are taken from the guardships, or from other vessels that are not in such a state of forwardness ; and so it happens successively as occasion requires, without injuring or impeding the service in any degree whatever. The noble Duke says, that the foreign troops having marched to the place of embarkation, and not finding the transports ready to receive them, have been obliged to return to their quarters. I believe his Grace has been equally misinformed and misled in this, as well as in every other instance. I am certain the fact is not so, and I will tell his Grace that at no time has the transport service been more expeditiously conducted ; for I am certain that it was never known in this country that so many tons of shipping were procured within so short a time ; and what rendered this circumstance the more extraordinary was,

was, the extreme severity of the weather, which, by the returns made to me, had put a stop to all work and business for a fortnight, during the time of the frost. The noble Duke who made the motion, has founded it on motives of humanity, equity, and sound policy. To the first I shall only say, that the present measures, if steadily pursued, will, to every substantial purpose, answer the ends of humanity, and be the most effectual means of preventing the effusion of human blood. In point of equity, I am sure the motives for rejecting his Grace's motion are equally strong, unless we consent to surrender the most essential and sacred rights of the British legislature. And as to the policy and expediency, I will venture to say, that the noble Duke is no less mistaken; for as we have the right, so I trust we have the power to assert that right, and will be able to convince the Americans, that our ability will be made no less conspicuous than the justice of our claims, the humanity we have manifested in the manner we have asserted them, and the measures we mean to pursue in their maintenance and support.

The Duke of *Richmond*. The noble Earl who lately presided at the head of a certain department [Lord Dartmouth] seems to doubt, or is willing to explain away, the expression alluded to by the noble Duke who made the motion. I recollect his Lordship's words precisely: I took a note of them at the time, and they were, "that it was the intention of administration to relax and conciliate, and never by force of arms to *subdue* America." This, my Lords, I contend, was the idea thrown out in the speech; and was the ostensible object of the clause the last mentioned noble Duke alluded to; though I perfectly coincide with his Grace, that war alone for the purpose of subduing America, lay concealed under that clause, as now manifestly appears. What does the clause import? Does it contain any one specific provision whatever? Is it not rather a loose, indefinite jumble of words, meaning nothing, or at least nothing but to vest in the Crown a power of disposing of the rights of Parliament; of leaving Parliament all the odium; and giving his Majesty, should the scheme of coercing America prove impracticable, all the credit of any concession Parliament might hereafter be disposed to agree to. I would desire your Lordships to turn to the clause, and see the condition on which any measure of conciliation is to rest: "whenever any province, &c. shall shew a disposition to return to their duty." How is this disposition to be known? Not by the Congress,

Duke of
Richmond.

for

for you have refused to treat with them; not with any particular description of men, for there can be none legally entitled to answer further than themselves are concerned. There are no assemblies in being. Who then can you treat with, but with individuals whom you mean to detach from their countrymen, in order, by holding out offers of pardon, to create divisions; and by effecting that, forwarding your schemes of either simple conquest or unconditional submission? But I do assure your Lordships, that this scheme, however artfully planned, or deeply laid, will meet with the same fate of all the rest. The people, so as to answer the ends you propose, will never permit themselves to be duped. It will be received as the proposition made to the Congress by one of the [Sir Grey Cooper] members of administration in the other House was. This will never effect what the hundred thousand pounds offered by that gentleman to the Congress, if they would agree to the noble Lord's conciliatory proposition, failed to do. Every offer, however covertly made, must be disclosed at last. That is the constitution of the Congress. They were obliged to impart to their constituents, that they refused the money; and that insidious proposition, though short of the system now pursuing, met with that degree of disregard and contempt it deserved. But supposing that the Congress had consented, do your Lordships imagine, that the people would have submitted to such ignominious terms? I am certain they would not. The Congress is a temporary fluctuating body, chosen for a certain term; and as the people found that the point in issue, had the Congress assented, would have been virtually surrendered, it is probable they would have appointed other delegates, who would have undone every thing that had been agreed to by their predecessors, for they would never acquiesce in a mandate which says you shall tax yourselves, you shall collect those taxes, and send the produce to be deposited in the British treasury; and we do at the same time reserve to ourselves not only the negative of disapproving of the *quantum*, but likewise the right of taxing you in any manner, or to any extent, we may hereafter think proper. The noble Earl, my Lords, who spoke last, has, in my opinion, made use of a very presumptuous expression in reply to the noble Duke who spoke immediately before him. He tells his Grace not only that he is totally mistaken and misinformed, but supposing him to have received his information from professional men, desires him to send those professional

professional men to him; and that he will convince them of their ignorance, and that they know nothing at all of the matter. This, I confess, is a language I have been hitherto unaccustomed to; I always imagined that professional men were supposed to know something of their profession; I always thought that in undertakings of an important and arduous nature, they were consulted. I never expected to have heard so respectable a body condemned in the lump, and included in a general charge of ignorance and incapacity. If the noble Earl is serious, I think this fact ought to be one reason for our desisting from our present design; for if the charge be true, who shall we have to carry it into execution? Or, taking it in another light, if the talents and knowledge of professional men are held so cheap and in so much contempt, and that the noble Earl has only relied on his own judgment, which, however transcendent in other respects, I cannot put in competition with those who have devoted their whole lives to a profession, I am not at all surprized that all our operations have hitherto miscarried. The noble Earl has denied that vagrants or convicted felons have been entered and entertained aboard his Majesty's ships of war; but I can, partly from my own knowledge, contradict his Lordship in this assertion. As lord lieutenant of the county of Sussex, I received an order from the privy council, signed by the noble Earl in the blue ribbon [Lord Gower] as president of that council, desiring me to cause the laws in being against vagrants, &c. to be carried into effectual execution. I believe there is not one of your Lordships who are strangers to the intended operation and effect of this order, or suppose that the proclamation alluded to was issued for any other purpose but to pursue the objects of the law, by causing the persons apprehended under it to be put aboard the ships then fitting out, and which, whatever the noble Earl may have asserted to the contrary, I am well satisfied, were detained for want of hands, from proceeding to the places of their respective destinations. The noble Earl speaks very pompously of the power, strength, and resources of this country. He may be right; but I think we have not yet given any great proof of those, except in the liberality, I may say the profusion, of our grants. His Lordship says, that our abilities have not been at all exerted; that we are able to employ and provide ten times a greater force than the present. His Lordship is, I confess, very fruitful in expedients; but I suspect he has, in this instance, asserted

more a good deal than he will be able to make good. By the votes of the other House I perceive, that six millions, or thereabouts, has been already granted for the service of the present year, in which is included, even for last year, nearly a million for extraordinaries. Now, without computing what the probable expence of the extraordinaries of this year will be, when four times the number of land-forces, besides the very formidable fleet the noble Earl has entertained us with an account of, are to be employed: I just confine the expence to what is already granted. I would then ask the noble Earl whether he seriously thinks that we are able to raise sixty millions? for his assertion goes exactly to that; or supposing that we were, whether it would be wise, prudent, or politic, to involve us in a situation which might render such an exertion of our strength necessary? It is, my Lords, on account of our defenceless state at home, the heavy expence the prosecution of a war at so great a distance must cost, the deluge of blood which must of course be spent in such a quarrel, the fear of an attack from our foreign enemies, but above all, the injustice of the cause, that I am for heartily agreeing with the noble Duke's motion, as a means of preventing all those accumulated evils with which we are threatened. I trust, should your Lordships agree to it, it would produce all the happy effects so ably stated by the noble Duke; and I, for one, am free to declare, that should the Colonies persist, and refusing to enter into terms of accommodation, claim rights destructive of the sovereignty of this empire, as one great political body, I should thenceforward be silent in their behalf, and should be as earnest as the most zealous of your Lordships, in compelling them to that species of submission in which the strength and power of this country, and all its dependencies, most essentially depend. Before I sit down, as perhaps it may be the last time I may have an opportunity of addressing myself to the right reverend bench on this occasion, I shall say a word or two to their Lordships. It is true I have been as yet rather unsuccessful in my appeals to that quarter; but when to the motives of humanity, and all the sanctions arising from a love of peace and an abhorrence to the effusion of blood, I shall add the considerations of their Lordships' own personal concerns, I flatter myself, I shall be heard with greater attention by the right reverend body. It is possible, my Lords, that in the present conflict, while both parties are warmly contending, the constitution may be destroyed, the rights
and

and liberties of the people may be annihilated, or another revolution may happen, and the government may be overthrown. In the latter event, what will probably be the consequence?—but that in such a state of things, you, my Lords, [the Bishops] may a second time fall a victim to the rage of the people. The golden prebends, the rich deaneries, the overgrown bishopricks, may be sacrificed to appease the wrath, and gratify the expectations of the prevailing party. This may be the case, should the constitution be overthrown, and it has always been in this country a consequence of bad government. Our rulers have first provoked the people, the constitution has been violated, attempts have been made on their parts to support those violations, and the people have generally prevailed in the struggle; so that the event has been, whether the rights of the people have been vindicated or invaded, the government has been dissolved. It is on this account I now particularly address myself to the right reverend bench, to remind them of their real situation, and to warn them of the consequences of a state of civil confusion, as they perhaps will be the first and most material sufferers.

The Earl of *Sandwich*. I beg your Lordships' indulgence Earl of Sandwich, to be permitted to explain myself, relative to what the noble Duke who spoke last has imputed to me. I never arraigned the abilities of professional men in general; I never desired that they might be sent to me, to instruct them. What I both said and meant, my Lords, was, that the noble Duke was misinformed; that if he had his information from professional men, I knew who they were; I knew they were superficial, and as such recommended to his Grace, to send those professional men to me, and I would convince them that they were ignorant, and knew nothing at all of the matter. I am therefore in your Lordships' judgment, and appeal to your Lordships' candour, whether my words literally or substantially admitted of such an interpretation as the noble Duke has put upon them; I am sure they did not; for as no man has a higher esteem for the profession, no person can be more perfectly convinced of the very accurate and extensive knowledge of many of those brave and experienced seamen alluded to, who would do honour to any profession, or any service.

The Earl of *Dartmouth*. I cannot think that the noble Earl of Dartmouth, Duke who spoke last, had the least intention of mis-stating my words, in a former debate. His Grace generally is pretty accurate; but I do however assure your Lordships,

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that

that he has imputed sentiments to me, which I never entertained, and for which I am alone obliged to his Grace's ingenuity, who has exercised the miraculous power of transforming what I said on the occasion alluded to, to something on the whole extremely different from what it was my wish and intention at the time to express.

Earl of
Hillsborough

The Earl of *Hillsborough*. I was not present in the House when the noble Duke, who made the motion, adverted to me in a matter of explanation relative to the conduct of the cabinet in 1769, when it was proposed to repeal the act for laying on the port duties in America. I have been now informed that his Grace has asserted he was over-ruled and out-voted in council; and that I sent him a note stating the transaction. I do not say that the noble Duke did not receive such a note, but I deny that it ever came either directly or indirectly from me. The noble Duke who spoke last, [Duke of Richmond] has again adverted to my unfortunate letter, which has afforded such ample matter for discussion both in this and the other House; and has asserted, that it was done with an intention of amusing the Colonies, and deceiving them. There is nothing, I trust, I would be further from being guilty of, than deceit, in any shape or to answer any purpose. I am certain such a charge will be found totally groundless in the present instance. I appeal to the obvious and natural construction of the letter itself; and I would recommend to such of your Lordships as may hereafter think it worth your while to take notice of it, to first desire it to be read, in order that the House may be enabled to judge for themselves, and not be misled by any partial interpretation of it. Such a conduct would be candid; I am sure it would be parliamentary. The words of the letter, so far as they relate to the present subject, were, that his Majesty's then ministers engaged for themselves, and desired the respective governors to assure the several assemblies, that it was not the intention of this country to lay any tax on America, for the purpose of raising a revenue. Supposing then, that this promise were binding on all successive administrations, which I presume will hardly be contended for, will any noble Lord in this House offer to produce a single instance in which this promise has been violated or departed from? Has there any tax been imposed, or duty levied, since that period? I will not trouble your Lordships with any particular discussion on the right this country has to tax the Colonies. My general sentiments are already fully known.

known. If sovereignty includes every thing essential to its inherent power and exercise, it is to the last degree absurd and ridiculous, to distinguish between the general legislative right to govern, direct and controul, and the partial limited object of taxation, which is clearly included in that right, and necessarily forms a part of it. It would ill become me to waste your Lordships' time in pursuing the self-evident consequences which flow from this principle. The point of expediency in the first outset of this business might have admitted of argument: the present state of it cannot, nor will admit of any. The gentleman [Mr. Grenville] who first proposed the stamp act, saw this point in a very clear and able light, and determined to couple the maintenance of the right with the necessity of obliging America to contribute to lighten the burdens she had been necessary in creating. He was a worthy, able man, and in some respects a great man; yet if he could have foreseen all the consequences that have since happened, I have strong reasons to believe he would have desisted from his design. The gentlemen who succeeded him acted from principle, and were actuated by the best motives: they found that country in a state little short of civil confusion. From a solicitude to preserve the peace of the empire, they consented to the repeal of the law which created those unhappy disturbances; but even that administration acknowledged the principle laid down by their predecessors in office; for they accompanied the repeal of the stamp act, with the declaratory law, which maintains the legislative supremacy of this country in all cases whatever. When the duties were laid on in 1767, I did not attend, nor had I any hand in imposing them; nevertheless, as the right was questioned by America, which is the main point to which I would wish your Lordships to turn your attention, I confess I was of opinion, that unless we resolved entirely to relinquish the sovereignty over that country, by no means to consent to a total repeal. I saw the necessity of retaining a part of the duties, till America should recognize the right of imposing them. I acted strictly up to those ideas; I voted against the total repeal on that ground; and I concurred in advising and agreeing to the latter on the same motives. A full, clear, and specific acknowledgment of the right, I thought necessary; when that was perfectly and completely secured, I was willing to concede on the ground of expediency alone. I am still of the same opinion, and shall ever continue to resist, to the utmost of my power, in whatever form

form it may be brought forward, every proposition for concession or accommodation, short of submission and acknowledgment, such as I have described; because, I am perfectly convinced, that if the right of taxation be surrendered, every other beneficial right of sovereignty will soon follow, and America in the end be totally separated from this country. The noble Duke, on a former occasion, expressed his disapprobation very strongly of the law for altering the charter of Massachusetts Bay, passed the last year but one. For my part, I think the law was in every respect extremely necessary. First, as to the right, because every charter, from the very nature of the grant, is controulable and dissolvable by the supreme legislature. Only reflect, my Lords, for an instant, what the consequence would be, if the contrary were true? The King might grant exclusive privileges by charter; he might name them in such a manner as to render them totally independent of Parliament; and he might in fact, by this means, parcel out the whole empire into as many independent communities as he pleased. Surely, my Lords, such an absurdity is not to be endured. I contend, that all corporations are under the controul of Parliament; that it is competent for Parliament to alter, amend, or abridge the privileges thus granted, whenever they see that the interests of the empire demand it. Let us, then, in maintenance of the general principle, make a particular application of it, as affecting the colony of Massachusetts Bay. Towards the latter end of the reign of Charles the Second, a policy prevailed which I as heartily disapprove of as any of your Lordships, that of dissolving charters at the mere will and pleasure of the crown, or at least in a mode nearly as exceptionable. I believe, however, that the matter I am going to allude to, happened to be an exception to the general abuse of the power exercised by that monarch. It was discovered, that the charter granted to Massachusetts Bay, was no more than an incorporation of certain persons, for the mere purposes of carrying on trade, under the description of a chairman and so many assistants; the vacancies in the latter to be filled up by the chairman, and the president's seat, when a vacancy happened, by the majority of the assistants. What was the consequence? Why, this body of men usurped all the powers of civil government; and instead of a trading company, erected themselves into a kind of little republic, disclaiming almost all political relation to the parent state. Actuated by those principles of republicanism, which have

prevailed among them in a greater or lesser degree since their earliest settlement in that country, the chairman soon assumed the name of governor, and his assistants that of a council, over whom, for the reason before assigned, the King had no power, for he was not permitted to appoint either. The charter on this account was accordingly dissolved; and though after the Revolution the people of that province did every thing in their power to obtain a renewal of it, their endeavours proved unsuccessful. King William's council, though they had risked their lives and fortunes in support of the constitutional liberties of their country, could never be prevailed upon to establish, or renew claims so derogatory to the legislative rights, the sovereign countrol, and the essential interests of this country. At length the people of New-England were obliged to submit. Their country was divided into distinct governments, and the King reserved to himself the power of appointing the governor in the province of Massachusetts Bay, and provided in another manner for the election of the council. So the constitution of that government stood at the commencement of the present disputes, when it was found that a defect remained, which was very severely felt, and which caused a continual interruption to the carrying on of the public business. It was this: By King William's charter, though the appointment of the governor was reserved to the Crown, the council were chosen by the people. By which means the governor found himself continually thwarted or over-ruled in council; consequently whatever measures he adopted were either weak or inefficacious, and government became in a great measure useless or inactive. To remedy that evil, the charter bill was framed and passed into a law. I am sorry it was not thought of earlier; for I am certain if it had, none of the consequences which are now so strongly felt, and so justly lamented, would have ever happened. The hands of government would have been strengthened, and the promoters of peace and obedience would have had it in their power to exert themselves; none of the rash acts which gave birth to those bills of punishment would have ever happened; or if they had, the mischiefs would have been corrected or suppressed instantaneously, and the colony, and of course the whole continent, would by this time have been in a state of perfect tranquility and obedience. On the whole, my Lords, so far from disapproving with the noble Duke of the charter bill, or wishing it had never passed as a measure of government,

vernment; all I have now to lament is, as a means of preventing all the ill consequences which have since happened, that it was not thought of and carried into execution at a time, when, I will venture to affirm, it would have been productive of the most happy and salutary effects.

Earl of
Shelburne.

The Lord Wycombe [Earl of *Shelburne*]. I came down this day to the House with an intention of seconding the motion made by the noble Duke, because I think it is the only measure now left which can possibly extricate us from that inevitable destruction which awaits us, should we obstinately continue to persist in that present wild and romantic system of conquest and coercion, which I perceive is professed by several, who, I fear, have influence enough to cause the dangerous experiment to be made. I have, from the very beginning of this melancholy business, been always of opinion that a middle path might be hit on by which this country may be enabled to both acquit herself with honour, and yet diffuse the blessings of her once benign and happy government to her American subjects, without sacrificing those interests, which I shall always be as jealous and as zealous to preserve and retain as any one of your Lordships; meaning, however, to be understood on this clear principle, that the power of taxing themselves, and the rights enjoyed by charter, must be preserved to the Colonies inviolate. I shall ever think, that any attempt to deprive them of either of those, will ever be no less unjust in principle, than impracticable in the execution. I know, even after this, after concession on our side, and submission and confidence on theirs, a great deal will still remain to be done. Much must be trusted to the wisdom, integrity, and moderation of ministers. They will have many great and uncommon difficulties to encounter. I foresee many of them. The disposition of the army in particular, I predict will be the source of great doubt, and no small contrariety of sentiment both here and in America. I however put in my claim to be understood, as by no means giving up or being willing to relinquish the right inherent in the sovereign, of ordering, directing, and stationing the army in whatever part of this empire he may think proper; and I confess it is with no small degree of astonishment and uneasiness I have heard doctrines of a very different nature maintained within this House by several noble Lords, whose more peculiar business it is to watch and take care that his Majesty's just prerogatives be maintained entire and undiminished in all their parts. I particularly allude to the

the whole, I can see no solid objection to your Lordships agreeing to it: I perceive innumerable forcible reasons for your acquiescence. I foresee the possibility, if not the strong probability, of our being compelled to engage in a foreign war. I am convinced, that the present schemes of conquest and coercion are unjust. I am satisfied they are impolitic, and as such heartily unite in opinion, that the present motion ought to be agreed to on every principle of humanity, equity, and sound policy.

Lord Lyttelton.

The Lord Lyttelton. Though I do not think that the noble Lords who support this motion, nor any other noble Lord in this House, have any right to desire explanations from ministers, on points which arise and are incident to their offices, yet, for my own part, as the matter has been pressed pretty forcibly by several of the noble Lords in opposition, I should be glad to know from the noble Lords in office, whether they have specific assurances from the courts of Versailles and Madrid, sufficient to give them a perfect security that this nation will not be interrupted in the present measures for the purpose of reducing our rebellious subjects in America. I urge this more for the sake of strengthening the hands of government, than for the mere purpose of information; for I am perfectly satisfied, that no threats or intrigues whatever should prevent us from reclaiming America from its present disordered state, and securing to us in future its dependence and constitutional submission. But my motive chiefly is to remind ministers of what has fallen in the course of this debate, lest their silence may be construed into a positive acquiescence. The noble Earl who spoke last but one [Lord Hillsborough] has exculpated himself very ably from the charge of intentional deceit, imputed in his circular letter; but I am far from following that noble Earl in some of the reasoning he resorted to. His Lordship told you that no tax had been since imposed; that if there had, it was not imposed by the same administration; and that very few, if any, remained in office now who were in office at the time the letter was written. To me, further than the purpose of mere personal exculpation, all this seems extremely irrelevant. I cannot agree that any engagement or promise made by any administration, can be deemed binding on your Lordships. For my part, I shall never agree, as a member of this House, to be bound by any such promise. I cannot conceive that it is in the power, nor within the province of any set of ministers, however able, to compliment

pliment away the inherent rights of the British Parliament. It is incompetent to their situation. If the power be in the Parliament, as I am sure it is, they cannot even themselves surrender it, without a manifest breach of trust. I take it to be a right original, coextensive, and inalienable, not to be parted with or transferred. If so, how much less can Parliament and the nation at large be bound by engagement of this nature made by ministers? I allow that the right of taxation, which is the leading point in dispute, may, from motives of expediency, be suspended, or abstained from; but I do contend, that it can never be abandoned intirely, because it is essential to the very nature and exercise of civil government. The motion now before your Lordships is indeed of a very extraordinary kind. What does it offer? That after the most notorious acts of violence, after the most patient forbearance on our part, after giving proofs of moderation never before heard of, you are desired to suspend all further operations. Is this consistent with the wisdom and dignity of a great and powerful nation? Consider, my Lords, what a figure you would cut in the eyes of all Europe, in those of your own subjects, in the opinion even of the very people for whose sake the benefit is intended: Would not they all unite in pronouncing it the summit of folly, of cowardice, and national weakness, not lenity and humanity? I am astonished to hear the noble Lords on the other side urge so warmly motives of humanity, in order to induce your Lordships to agree with the present proposition. Are there any people under heaven have acted more inhumanely than those very people for whom they now plead? Have they not already destroyed even the very appearance of government? Have not they ruined, banished, and proscribed every man, who has even dared to differ from them in sentiment? Have not they trampled on every right of personal liberty and private property? Have not they even gone so far as to stifle all free discussion in print, and overthrown that great Palladium the liberty of the press, in the person of Rivington, whose only crime was, that he published the thoughts of men who ventured to disapprove of the measures they were pursuing? I do affirm to your Lordships, that I have particular information to support me in these general assertions, from gentlemen of undoubted veracity, who have related a variety of particulars that would astonish you, if they were made known. But, my Lords, besides the great question depending between both countries;

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I would

I would only ask, what will be the certain effect of this motion? It will only be to give the Colonies time to prepare for a more vigorous and effective resistance; and if what has been thrown out this day, relative to the real disposition of foreign powers, has any foundation in it, it will answer every end of giving time both to our natural enemies and rebellious subjects, to make such preparations as will for ever after put it out of our power to reduce the latter to a proper state of obedience.

Bp. of Peterborough.

The Bishop of *Peterborough*. I am not so insensible of my own insignificance, and, I trust, shall not be so forgetful of my duty and my place, as ever to become a busy meddler in political matters; but your Lordships will not think it unbecoming my station to say a few words in support of a motion which, notwithstanding what the noble Lord who spoke last, and the noble Earl who spoke some time before him, have objected to it, appears still to me founded upon principles of humanity, justice, and sound policy.

The substance of those objections, which have the most colour of argument, is, that it is unbecoming the dignity of Great-Britain to treat with subjects that are in rebellion to her authority, while they have arms in their hands; and that a republican spirit of independence being the real ground of the dispute, to negotiate would be only to delay, and give the Colonies time to strengthen themselves, and thereby become still more formidable than they are.

As to saying the Americans are not to be treated with, while they have arms in their hands, it is, in effect, the very same thing as saying they shall not be treated with at all: for it cannot be supposed, for a moment, that a whole people, engaged in what appears to them the very best of causes, who have already committed themselves so far as to incur the censures of rebellion, should, while they have the means of defence left, forego their only hope, and submit themselves unconditionally to the will of those whom they think have injured and oppressed them, without having the least assurance which they can rely upon given them, either of redress or security.

The plain and only inference to be drawn from this argument, is, that slaughter and devastation must now necessarily be the only means employed to re-establish mutual confidence, and a cordial reconciliation. As to the idea of the noble Earl, that these troubles originated from a republican spirit of independence, and therefore to treat would only be to delay, it seems to me a begging of the question; and to shew it is so, I beg leave to recall your Lordships' recollection to what was said in the debate on the Boston port bill.

Your

Your Lordships were then informed, that the discontents in America were confined to the lower order of the people, and were only the idle clamours of an inconsiderable faction, whose chief support was the encouragement they had from persons here at home.

In the next session, when the disturbances grew more alarming, they were said to be owing to the defective constitution, and turbulent spirit of a single disaffected province; that constitution was altered, and the evil increased: now it is spread over the whole continent, and it is attempted to persuade your Lordships that it has all along proceeded from one general principle of universal independence.

For my part, my Lords, believing in my conscience, as I do, that we need look no farther for the origin of these troubles, than the fatal imposition of the stamp act, I can by no means admit the notion, that absolute independence is even now the object of America. When I first heard the position at the opening of the session, it was, altogether novel to me, in any other light than as one of the many Hydra heads, that naturally spring from the blood of civil dissention: that some there may have been who from the beginning had it in view, I will not question; but if their party ever becomes general, it will be the consequence, and not the cause of our disputes.

Ill, however, does it seem to become the wisdom and gravity of your Lordships' counsels to adopt such a persuasion on mere presumptive evidence, and it stands on no other:

For whether America does or does not really aim at absolute independence, is by no means only a speculative idea; it is fraught with consequences of the utmost importance; it is big with all the horrors of war and desolation abroad, with all the evils of dissention here at home.

Ill therefore, I say, does it accord with your Lordships' wonted caution to decide on so material a point upon bare probability, deduced from doubtful premises, by surmise, inference, and conjecture, while positive proof was to be had; for had it certainly might have been, and I hope still may be had, if an assurance was given to the Colonies, (on laying down their arms, and making restitution for the violence done to private property) of security against the exercise of taxation. It is principally on this, by them deemed a constitutional point, and not on visionary ideas of an independence which nothing but a perseverance in error on both sides can ever realize, that America is united, and hazarding all the consequences of resistance. The noble Duke's motion is calculated to prevent the dire conflict between resentment and despair.

despair. It proposes no terms, which might embarrass administration, not even such as must be granted whenever an end is put to this war; for there are very few now so sanguine in their expectations as to think that America, if entirely subdued, could be held in peaceable subjection, under the exercise of taxation. Should it, however, appear that nothing short of independence will satisfy America, as I fear but too many of your Lordships have already concluded, it will at least have this good effect, it will let us all into the real ground of the quarrel, concerning which we so widely differ at present. It will unite the sentiments of all parties; it will give stability to administration, enable them to unfold their plan of operation, and leave no other subject of debate than whether it is best to conquer or abandon.

His Lordship then added, that it was not his intention to enter into the discussion of a point that had already been too much agitated, and which he wished had never been agitated at all, namely the supremacy of Parliament; but as he hoped to trouble the House no more on the subject of America, he begged leave to submit to their consideration a short reflection or two.

In whatever light, says he, I have viewed this subject, I have never yet been able so far to confound my ideas, as to suppose that power and right are synonymous terms; and to me it appears to avail little, that it should be said the power of Parliament extends over the properties, when it has ceased to influence the opinion of the subject. Parliament may indeed call men and things by what names it pleases; it may say that what was formerly considered as an aid, a free gift of the people, shall henceforward be looked upon as an act of legal obligation. It may say this or that is rebellion, and it unquestionably becomes so thus far, that he who counteracts its decisions must suffer the penalties, and may die as a rebel; yet, after all, there is no earthly government whatever, but in a great measure is founded upon, and is co-extensive with opinion: and when once the whole mass of a people think themselves oppressed, be the case real or imaginary, it is the wisest, because it is the only safe way for those who govern, to change their system, and thereby prevent those struggles which in the end, if not fatal to liberty, are dangerous to themselves.

In every exertion of power, civil or natural, it is right to consider what is, and what is not, practicable: it was the glory, as well as the policy of imperial Rome, at the summit

of her greatness; it has in more modern times been the peculiar boast of Great Britain, and may it be her practice to the end of time.

—*Per populos dare jura volentes.*

The Earl *Gower* confessed, that he had been one of the Earl *Gower*, members in the cabinet who had advised and concurred in framing the circulatory letter, written by Lord Hillsborough in 1769, and then read the copy of a letter written by a member of administration in 1765 [General Conway] to the American governors, maintaining the very doctrines supported by the noble Lords who spoke against the motion, that America, before she had a right to expect any favour or indulgence from the mother country, must first acknowledge her sovereignty, and the supremacy of this legislature.

The Lord *Abingdon* said a few words to shew, that the Lord *Abingdon*, right of taxation, insisted on by them stripped America ^{den.} of her property; and the claim of having a right to alter her charters, deprived her of her municipal rights; so that, on both accounts, the present war carrying on to compel her to an unconditional submission, was a war of conquest, and if successful, must terminate in the absolute slavery of the vanquished.

The Lord *Camden*. I have so frequently given my opi- ^{Ld. Camden.} nion on the injustice, on our part, of compelling America to pay taxes, without being represented in our Parliament, contrary to the fundamental principles of this constitution, the privileges the people of that country are entitled to, as British subjects, and the inalienable rights of mankind, that I shall not presume to trouble your Lordships on these subjects again, unless they come directly under debate, or make an essential part of the matter under consideration. I shall chiefly confine myself to the object of the present motion; observing, however, before I proceed further, that if there was any colour for the claim of taxing the Colonies, the form, the right which has been attempted to be exercised, is absurd beyond precedent. If it could at all be defended, it must be as an act of sovereign power issuing from the legislature; but the absurdity of the other House, whose power of granting aids arises from representation, granting other people's money, is a solecism in politics and legislation, reserved for modern discovery; an idea that every impartial, intelligent man must treat with derision; an idea which our predecessors would hardly believe possible to have entered into the mind of man to conceive, were they to rise from the dead, to behold

hold the ridiculous scene that is now passing, and the manifest injustice which it involves in it. The light I take the present motion in is, to remedy that extraordinary act called the capture act, passed immediately before Christmas. I confess I am astonished how such a law could have ever received your Lordships' sanction. I do not mean to arraign its cruelty, injustice, and impolicy, they do not come within the view I intend to take of it. I was indisposed at Bath the time it passed this House, and I would be glad to know from either of the learned Lords who defended it, how they could possibly permit the clause of pardoning to pass unnoticed; or how they could let such a manifest imposition be put on the House, as that the clause delegated any power whatever of opening an accommodation with the Colonies? What does this celebrated clause say? That his Majesty shall be impowered to grant and receive submissions. I would ask the learned Lord, whether his Majesty can, under this act, empower commissioners to grant pardons to provinces, and whole bodies of men. If he should answer, that he can, I will engage to prove that he cannot; and that any person who presumed to act under such a power, would do it at his peril. But if his Majesty could delegate this power in the extent contended, would that answer the professed object of the clause? Would it enable the commander in chief, or commissioners, to enter into a treaty, or agree upon conditions? I do maintain it would not. The man who under such an authority dare make a single concession, short of receiving an unconditional submission or surrender, would hazard his neck. To what purpose then to send out commissioners to treat, when any treaty, communication, or intercourse whatever, according to the language of this House, would not only be treason against the person of the King, but treason against the State, and the legislative rights of Parliament? The people of America have been declared rebels: the very act I allude to describes them as such. Where then is the man bold enough to accommodate the subsisting disputes, by an authority short of that which declared them so, except, as before observed, America should unconditionally submit? This then is the clearest proof, that unconditional submission is the object in view, though it was endeavoured to be concealed under the flimsy clause I have been now commenting on; and it is on that account principally, that I am desirous the present motion should succeed, to get at the real intentions of administration, to know whether

ther they mean at all to recede from their full demands, or whether they intend to risque every thing to pursue war for the purpose of a complete conquest in one event, or unconditional submission in the other. Their refusal will no longer leave a doubt of their ultimate intentions. Concession, treaty, negotiation, &c. will have just as much meaning as the word accommodation had with the soldier in Shakespeare; accommodation, when desired to explain it, he said, meant accommodation. But, my Lords, great stress is laid upon the Americans seizing the castles, forts, munition, &c. of his Majesty; and it is said this is rebellion. If this is true at all, the case can only apply to Canada. If, however, we are to examine the law, which in affairs of this nature can be our only guide, I question the truth of this assertion. Previous to the reign of Edward the Sixth, it was not punishable as treason; during the reign of that prince, a law was enacted, which made the retaining the King's castles, fortresses, &c. against his consent, high treason. In the succeeding reign, that of Queen Mary, that, with all other laws passed since the 25th of Edward the Third, were repealed; and I know of none since enacted for the purpose; and, for my part, I cannot see, if the offence was merely confined to that, how a person could be legally punished. In this very strange clause I perceive there has an expression crept in, but from the whole complexion of this iniquitous affair I should have been inclined to imagine it got there by the blunder of the clerk; as it is rank nonsense; it is the condition on which the pardons are to take place, as soon as the province shall be in the *King's peace*. The phrase is an unmeaning one, as applied here. The King's peace, if it means any thing, relates to the antient custom, when the feudatories made war on each other, in avenging personal wrongs, or by way of reprisal and retaliation. When the King thought proper to put a stop to such quarrels, he proclaimed the respective districts which were the seat of quarrel, to be in the *King's peace*. I have turned the matter frequently in my mind, and think I have at length discovered the true reason of introducing this antiquated term. It is of a piece with all the rest of this business, which has been directed from the very beginning, to enlarge the powers of the Crown, under the flimsy pretence of asserting the rights of Parliament. Parliament is at all events to be disgraced; and when ministers have experienced the impracticability of their schemes, all they think they have to do will be to de-

clare the province to be in the King's peace. Hostilities will instantly cease, and, as a noble Duke observed early in the debate, Parliament will incur, both here and in America, all the odium of this attack on the liberty and property of their fellow subjects; and the King's servants will have the credit of conceding and desisting from an attempt, of which they were the original authors, but which experience had taught them, was as impracticable as it was unjust, cruel and oppressive.

Lord Mans-
field.

Lord Mansfield. If the noble Lord, who spoke last, had not so fully explained what the noble Duke, who made the motion, and another noble Duke, who spoke later in the debate [Duke of Richmond] meant by appealing to me; I never could have conceived, that I should have been called upon to explain or defend a bill, which I do assure your Lordships, I never saw nor was consulted upon, till it was debated on the second reading. I remember, I came very late into the House that evening, and should not have said a syllable, if I had not been called upon then, as I am this night. There were but two doubts started on that occasion; one of them was, by a noble Duke I have now in my eye, [Duke of Richmond] who wished to know if the ships, their tackle, and apparel, lying in the ports and docks of America, not expressly offending against the principle of the act, by carrying on or intending to carry on any trade, &c. came within the intention of the general clause which creates the forfeiture under the description of all ships, goods and merchandize. I informed his Grace and your Lordships, that I thought it did; because any exception might be a source of endless confusion; for if a line were attempted to be drawn in favour of certain persons, or in respect of the mode of incurring the forfeitures, it might probably totally defeat the professed purposes of the bill. The other objection raised, was by the noble Lord over the way. [Lord Shelburne] His Lordship contended against the power of pardoning in the lump, vested in the crown by the bill; for my part, I am now of the same opinion I was then; I thought that the power of pardoning in the lump, was a prerogative inherent in the crown, from the earliest date of the constitution. I knew such a power had been uniformly exercised by the successive monarchs of this realm, from the Conquest to this day. I knew, likewise, that as they have exercised it themselves, so they have frequently delegated it to others. And on this head, I have only to add, that his Majesty's ministers were so well satisfied of the power itself, and the competency of the crown to delegate it; that a noble

Lord [Lord Dartmouth] near me, in some successive stage of the bill, moved an alteration in the preamble, for the purpose of reserving that power. I am, therefore, clearly of opinion, that his Majesty might have granted pardons, as well to individuals, as in the lump to whole provinces, if that act had never passed. The noble and learned Lord, from the nature of the commission, has raised arguments and drawn conclusions, on the objects to which it may, or can be legally directed. This, my Lords, will greatly depend on circumstances, and the prudence and abilities of those to whom the execution of the commission is entrusted. It may be presumed, they can have nothing to fear, if they perform their duty faithfully. It can hardly be supposed, that they will incur the displeasure of Parliament, for acting up to their instructions; and it is still less probable, that they will risque the censure of both Parliament and their Sovereign, by any improper exercise or abuse of their powers. The noble and learned Lord, is at a great loss to know the precise meaning of the phrase "well disposed;" and the legal definition of that other phrase of being "in the *King's peace*." For my part, I am at no loss to comprehend the meaning of both these expressions, the first plainly importing a disposition in any province, town, or district, to return to their allegiance, and recognize the supreme legislative authority of this country; and the other, a proclamation on such recognition and acknowledgement on the part of the persons authorized by the act, to declare such colony or province to be in the *King's peace*; that is, to be deemed to be under the protection of the laws, and be restored to all the privileges of peaceful and dutiful subjects.

My Lords, something very unusual, I mean to the extent it has been carried this night, has happened on the present occasion. I could not help observing, in the course of the debate, that almost every matter connected with the affairs of America, has been amply discussed; but the *very* proposition your Lordships have been convened to consider. The port duties laid on in 1767, and the partial repeal in 1769, have been much dwelt on; there is not a syllable relative to either in the motion. A noble Duke, who spoke early in the debate; [Duke of Manchester] has gone into the state of the navy very largely; there is nothing about the navy in the motion. Another noble Duke, has talked a great deal of convicts and vagrants—the motion is quite silent on that head. A fourth [Lord Shelburne] endeavoured to prove, that the work imputed to Montcalm, was a forgery. The

same noble Lord found fault with the military arrangements in Ireland, subjects totally unconnected with the motion; and the noble and learned Lord who spoke last [Lord Camden] harranged on the improper interference of government in the affairs of the East-India company—all matters totally foreign to the immediate subject now before you.

I had no intention when I came into the House, of taking any part in this debate; but as I have been called up, I shall say a few words, but mean to confine myself merely to the motion. I am cautious of delivering my sentiments in this House, because whatever is said here, is waisted instantly to America. The arguments are either too frequently misconceived, or mis-stated; besides there are many things which come out in debate, that are of little consequence, are trifling in themselves, and are rendered still more ridiculous in print. I therefore clearly unite in sentiment, with the noble Earl [Lord Temple] who spoke so ably, and so like a true friend to his country, the other night, that little is to be said, and much remains to be done; for that nothing passes within these walls, that does not make its way to the other side the Atlantic, and has been converted to the purposes of counteracting the measures to which it related. It has been much insisted on this day, that the present is a legislative war, and therefore, that his Majesty is thereby bound up from exercising his prerogative, and that the matter has been committed to Parliament. Supposing this to be strictly true, has not the act alluded to created the very power under which the commissioners are to act? Supposing it otherwise, will the crown be denied the exercise of its inherent prerogative in the present instance only, where it is most wanted? But, my Lords, the distinction of a legislative war is perfectly new. Was not the war relative to the succession, and several others of the same kind legislative wars. May not every war be called so, which has been carried on by the express desire or consent of Parliament. I do not, indeed, recollect one carried on since the Revolution, without that sanction.

This country, my Lords, is now arrived at a very tremendous crisis, just commencing a war of a nature entirely new; a war, that must necessarily be very expensive, and the issue of which no man can foretel. It is true, that the kingdom will in a great measure be left defenceless; that we can have no certainty that France or Spain will *long preserve* their present *pacific dispositions*; that we have been reduced to the necessity of hiring foreign troops, and sending to the ports of other kingdoms for transports. But how, my Lords, were these

these circumstances to be avoided? America has rebelled; America is in arms; not defensively, but offensively; even if we were willing to cease hostilities, they are not. We must therefore act with vigour, and we must at least shew ourselves determined to surmount their opposition. Happy would it be for us, my Lords, if any means could be devised of ending the quarrel without bloodshed; but does the present motion tend to such an effect? Without proposing to save a shilling of the enormous expence the nation has been at, in providing and equipping the armaments to be sent out this year to America; it agrees that the troops should proceed; but when they shall arrive at the place of their respective destinations, they are to remain with their arms folded across, inactive and unemployed. What then—commissioners are to treat with the congress; they are to prepare a petition of grievances, which the petitioners are to bring to England. The congress will laugh in their sleeves at our folly; they will reprint their declaration of war under a new title, for that states what they term their grievances. We shall lose a campaign, of which they will take care to avail themselves, and the next spring we shall have the whole to begin again. This, my Lords, would, I conceive, be the issue of the present motion; I therefore oppose it, as nugatory, ill-timed, and ineffectual.

Lord Camden. I shall not trouble your Lordships at this ^{Lord Camden.} late hour of the night, in making observations on the many curious matters your Lordships have been now entertained with. I cannot help, however, making one remark, which personally applies to the noble and learned Lord; that is, his saying very *little* to the question, and a *great deal* on other subjects, according to his Lordship's language, not at all connected with the present motion. I shall confine myself to that part of his Lordship's speech, which relates to the power of granting pardons. The noble and learned Lord surely misunderstood me, if he imagined that I questioned the King's power to pardon. No, my Lords, what I contended, was what I pledge myself to your Lordships that I shall be able to prove, that the King cannot pardon in the lump, without the aid of Parliament, offences against the state; much less can he pardon or agree to any terms short of the claims and conditions which Parliament have defined to be the true basis of conciliation. The noble Lord, by the pains he has taken to defend the act, seems to be the father rather than the casual defender of it. He says, that the commissioners will take care not to transgress the limits of their commissions. Will his Lordship, or any other noble Lord in this House, rise and tell me,

me, that the latter extends an inch farther than the mere power of granting pardons, on terms of submission, by the people of America laying down their arms, and throwing themselves *unconditionally* at the feet of this country. This then being the true state of the case, it brings me round to the point I set out from; which is, that the present motion is become necessary, to prevent the further effusion of human blood; and as the means of putting an end to a war, which must inevitably bring on the destruction of either, if not of both countries; it will supply the defect of the bill, I have been now commenting on; it will be the means of drawing forth specifications from the parties, of their respective claims, and will consequently lay a foundation for treaty, which can be the only safe road to peace and conciliation; whereas the clause in the capture act is nugatory and delusive. It leaves the matter just as it found it, according to the learned and noble Lord's own ideas; for if the King could delegate the power of pardoning and receiving submissions, the act of Parliament says no more; and as to any power of conceding or conciliating upon terms short of unconditional submission, which is an explanation too improbable for your Lordships to look for, unless preceded by actual conquest; his Lordship, I dare say, on reflection, is perfectly satisfied. that no such power is contained or delegated by the clause in question.

Lord Visc.
Weymouth.

Lord Viscount *Weymouth*. My Lords, a question has been pressed by a noble Lord near me [Lord Lyttelton] relative to the present disposition of the courts of Versailles and Madrid, which I do not think myself at all bound to answer, as a member of this House; nor in any other capacity, unless called upon by an address to the crown for papers. I am happy, however, to have an opportunity of removing the doubts suggested by the noble Lord, by assuring your Lordships, that at no time within my knowledge or recollection, had this country less reason to be jealous or suspicious of the dispositions and intentions of those courts, than at present. His Majesty's ministers have received repeated assurances, accompanied by the most unequivocal proofs of their pacific intentions; and I am further convinced, that although they should have entertained sentiments diametrically opposite to those they profess, they have it no more in their power than in their inclination, to effectuate any measure which might be the means of involving this country in a war, or of impeding the plan of operations designed to be carried into execution, for the purpose of reducing our colonies to a state of constitutional obedience to the power and government of this country. The noble Duke who made the motion, had stated a fact, relative to two French gentlemen arriving in the rebel

rebel camp, and after having an interview with the general, of their proceeding to the congress at Philadelphia. I have heard that there were two persons at the head quarters at Cambridge, of the description the noble Duke has mentioned ; but when I heard it, I was of the same opinion as now, that their presence there proceeded from motives very different from those I hear assigned this day. I looked upon it, that they were gentlemen who were making a tour of the American continent for their amusement ; or that they were merchants, who went there to negotiate matters in the way of trade, on their own private account.

The Duke of Grafton. My Lords, I have long observed, ^{Duke of Grafton} that *some persons*, from long experience in the modes of controversy adopted in the courts below, where matters are frequently represented in every light but the true one, have acquired a knack of holding up the weak parts of a debate ludicrously ; and when they find themselves pressed in argument, resort to ridicule, in order to draw the attention of the House to extraneous matter. Thus the noble and learned Lord, who spoke lately [Lord Mansfield] has claimed a kind of triumph, by commenting upon every thing which seemed not immediately to relate to the motion now before your Lordships, and in the very spirit of the conduct he has reprehended in others, has sat down without saying any thing, or next to nothing, on the question under consideration. I differ very widely from the learned and noble Lord ; for I shall ever be of opinion, that every matter connected with the present cause of dispute with America, the different measures which arose in consequence of that dispute, and the conduct of that war, by which the friends and supporters of administration mean to terminate it, are all subjects well worthy of your Lordship's consideration and investigation ; for it is evident, that those several objects are not separate or distinct, but form one great whole, which cannot be properly examined or discussed, unless you consider its several parts at one view. I confess, my Lords, that I find myself much hurt to perceive a question of such immense importance, treated in so ludicrous and trivial a manner. I therefore trust, that your Lordships will impute any warmth I may have betrayed on the present occasion, purely to the cause I have now mentioned. I hope I have too great a respect for your Lordships, to offer any motion to your consideration which I thought did not merit the attention of Parliament ; and, I own, I cannot avoid being much surprized, that an attempt to have it laughed away should be made ; when, I am conscious, that I took every possible

possible precaution in my power, to frame it in such a manner as to leave the subject open, and not by narrowing preclude every part of the House, to unite on some general principle, which might, on the onset, be the means of putting a speedy stop to the further effusion of human blood. But, my Lords, nothing which has happened on the present occasion can induce me to desist from what I have so sincerely at heart, as the restoration of peace. I am willing to give up any part of the motion, which may seem objectionable to those who *only* have it in their power to give it effectual support. I am ready to alter, omit, or amend, so that the principle of conciliation, which was my motive for submitting it to your Lordships, be preserved. I am desirous my Lords, in conformity to what I said on the opening of my motion, that it be sent to a committee to consider of it and report their opinion thereon to the House. And I once more *conjure* your Lordships to reflect, that the honour of Parliament, the prosperity and dearest interest of both countries, the lives of thousands of British subjects are at stake, that the present is probably the only moment you will ever have to snatch them from the ruin which will otherwise inevitably await them, and that the consequences of neglecting this opportunity, will be the source of endless mourning and lamentation to ages yet unborn.

The House divided: contents 28, proxies 3=31; non-contents 71, proxies 20=91.

March 15.

Private business. Adjourned to the 18th.

March 18, 19, 20, 21, 22.

Private business. Adjourned to the 25th.

March 25.

Bills passed by commission. Adjourned to the 27th.

March 27.

Earl of Effingham moved, That a list of such vessels, with their cargoes, as had been cleared out of the port of London for America, and of such licences as had been granted, pursuant to an act for prohibiting all commerce with America, be laid before the House.

Motion agreed to.

[This motion requires some explanation. An act had passed, prohibiting all trade and intercourse with the Colonies. A clause in that act permitted ships in his Majesty's service, and others laden with stores for his Majesty's use, or with provisions for the fleet and army, or provisions for the inhabitants

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inhabitants of such places as were actually in possession of the King's troops. But it was provided, that such ships were to take out licences from the admiralty; or, if in America, from the admirals, generals, or governors of provinces, otherwise they were liable to seizure. About the middle of March it was whispered, that great quantities of goods had been licensed and shipped contrary to the act, and the first public notice taken of it was this motion.]

March 28, 29.

Private business. Adjourned to April 1.

April 1.

The same.

April 2.

Bills passed by the King.

The Lord Chancellor moved, That Elizabeth, Duchess Dowager of Kingston, do surrender herself at the bar of this House, in Westminster-hall, on the 15th instant. A short conversation ensued, into whose hands she should surrender herself? Lord Mansfield said, every prisoner, while at the bar, was in the custody of the black rod. It was doubted, if the trial lasted more than one day, whether the prisoner should be committed, and where? Lord Mansfield said, it was time enough to consider of that; she must be taken into the custody of the black rod, when she surrenders.

April 3.

Private business. Adjourned to the 12th.

April 12.

Nothing material.

April 13.

Ordered, That should the Duchess of Kingston's trial continue more than one day, she remain in the custody of the gentleman usher of the black rod. Adjourned to the 15th.

April 15, 16.

Trial of the Duchess of Kingston in Westminster-hall. Adjourned to the 19th.

April 19, 20.

The same. Adjourned to the 22d.

April 22.

Trial finished. Adjourned to the 26th.

April 26.

Private business. Adjourned to the 29th.

April 29.

No debate.

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April 30.

Private business.

May 1, 2, and 3.

The same. Adjourned to the 6th.

May 6, 7, 8, and 9.

No debate.

*May 10.*Duke of
Manchester.

The Duke of *Manchester*. I have presumed to request your Lordships' attendance this day, for which I ought to make an apology, as it is on a motion of mine, very unconcerted; some few friends only had I an opportunity of communicating it to. But, my Lords, the business does, in whatever light it is viewed, appear so interesting, so important to the British nation, that as the matter struck me, I could not reconcile it to myself to withhold it from this House. My Lords, I have not the arrogance to think that what I shall submit to your Lordships, has escaped the vigilance of all your Lordships' judgments: I have not the vanity to imagine, that the arguments my circumscribed talents may suggest to me to use, can have the good fortune to persuade the majority of this House, unless they should meet with the support of men of greater weight. Some there are who chance to be absent, whose great authorities I must lament the loss of. But, my Lords, if what I may offer should throw any light on a subject as interesting as ever arose since Britain has extended her power beyond the confines of the isle, I shall at least have the satisfaction to think I have not buried my ideas; I have not been wanting in that duty, which from the rank we hold in life is mine, is that of every Lord in this House. My Lords, for a paltry set of words, for an unreasonable claim of power, for a fascinating assertion of impracticable authority, for an airy nothing, a visionary shadow of ideal revenue, impossible to be raised but by the consent of that people whose contributions we so much thirst after, and whose consent we do despise, has Britain been duped into an unnatural war, where victory or defeat must each enfeeble this lately great empire: a war carried on against a part of our fellow-subjects, whose numbers, at least, equal a fifth of the whole; and who in extent of country so far exceeds the size of Britain, that the comparison of her is but as a speck in the disk of the sun. I will not dwell on the disadvantages our army must labour under from the far-extended distance of the war; a common map, to the commonest understanding, must demonstrate more

more than rhetoric can paint. But, my Lords, it has been your pleasure to enter into this war; the matter has been laid before you, and often has been debated, and your Lordships, in your judgment, have deemed it necessary to correct the saucy freedom of high-minded sons, grown up to manly age, to check in your American children that independent spirit, that strange love of liberty, which, where permitted to take root, does so infatuate mankind, and which has long been the honour and safety of this isle. You have thought it right to curb their ideas of property, which lead them to imagine we have no right to take any part of that property from them, without their free consent. My Lords, I respect the decisions of the majority of this House; but if those decisions may have arisen from any peculiar circumstances, now no more existing; if they may have sprung from false or mistaken intelligence; if the whole disposition of things, from various accidents and events, may have become totally different; perhaps it may not be unworthy your Lordships' wisdom, to reconsider what you have decided, to revise your judgments, to retrace the steps we may too hastily have trod. My Lords, in the beginning of our unhappy contests with America, those who debated the matter on the side of the ruling power of government, stated, not only the necessity, but the great facility of forcing to a compliance with all the demands of government, such colonies as should dare to offer their vain resistance: we are told they had not strength for war, they had not means of war, they had not union among themselves; that they wanted money, that they wanted discipline, that they wanted officers, and, to sum the whole, to make them contemptible even as submissive subjects, that they possessed not courage to face an English soldier, whose birth on this side the Atlantic endowed him with that intrepid spirit, an American, whom even necessity had inured to toils, could never aspire to reach. The decisions, my Lords, of administration, gave them union; the refusal to hear their petitions, combined the whole in a firm knot of calm, deliberate, desperate determination to resist. Money, which is but the type of property, was soon supplied by a type of equal use; even personal freedom gave way to public security, and personal property was sacrificed to the necessities of the rising state. The disaffection was general, and British governors now no longer administer law in British America. How true the charge of wanting martial spirit proved, let those relate who

first saw the blood of civil war spilt at Lexington. To those who saved the honour of the day, at the bloody forcing of the lines on Bunker's Hill, to those who saw the British valour check'd, may I safely refer for a full confutation of the absurd supposition, that men descended from the same line as ourselves, whose all is at stake, who think their cause just, would, like the most enervated Asiatic tribe, yield a bloodless victory. My Lords, the history of human nature teaches us, that the greatest talents often lie hid in the most disguised obscurity; till accident, till the bustle of the times, calls forth the genius, and lights the æthetial spark; then do these meteors cast an unexpected blaze: an apothecary's late 'prentice leads forth armies, displays the warrior's skill, the warrior's intrepidity, and meets a death a Roman might have envied: another who, in peaceable times, might have never rose to greater praise than a jockey's skill, amidst every rigour of an inclement season, in an inclement country, astonishes us with a march a Hannibal would have admired, and carries the alarm of war to the walls of a great city, which must probably have yielded to the boldness of the undertaking, had not a Carleton saved it. I am not making a panegyric on American prowess, though great achievements, even by an enemy, will ever meet my praise. But, my Lords, these are facts incapable of dispute. To come now, my Lords, to that which has cast the deepest stain on the glory of the British arms, to that which must rouse the indignation of all who feel for her disgrace: the army of Britain, equipped with every possible essential of war, a chosen army, with chosen officers, backed by the power of a mighty fleet, sent to correct revolted subjects, sent to chastise a resisting city, sent to assert Britain's authority, has for many tedious months been imprisoned within that town by the Provincial army, who, their watchful guards, permitted them no inlet to the country, who braved all their efforts, and defied all their skill and abilities in war could ever attempt. One way, indeed, of escape was left; the fleet is yet respected; to the fleet the army has recourse; and British generals, whose names never met with a blot of dishonour, are forced to quit that town which was the first object of the war, the immediate cause of hostilities, the place of arms, which has cost this nation more than a million to defend. We are informed of this extraordinary event by a gazette, published by authority from government, in which it is related that general Howe had quitted Boston; no circumstances mentioned to palliate the event, no veil but that

that of silence to cast over the disgrace. But, my Lords, though government account is short and uncircumstantial, yet private intelligence, public report, on which, till it is with authenticity denied, I must rely, informs us, that general Howe quitted not Boston of his own free will, but that a superior enemy, by repeated efforts, by extraordinary works, by fire of their batteries, rendered the place *untenable*. I mean not the least most distant censure on him; his reputation stands fixed on too firm a basis to be easily shaken; I do believe all that in that situation could by the best officers be attempted, was tried to the utmost. But, my Lords, circumstances obliged him to quit that post he could not *possibly maintain*. The mode of the retreat may to the general do infinite honour, but it does dishonour to the British nation. Let this transaction be dressed in what garb you please, the fact remains, that the army which was sent to reduce the province of Massachusetts Bay, has been driven from the capital, and that the standard of the Provincial army now waves in triumph over the walls of Boston. My Lords, so extraordinary an event, so contrary to all the sanguine promises of administration, calls for a full explanation; the public have a right to expect it, your Lordships have a right to demand it. If ministry are still determined to keep silence, they make themselves responsible for all the accidents of the war. My Lords, the business I have to trouble you with this day is, to desire a fair state of the matter. It is not vain curiosity prompts; it is in order that this House, knowing all the circumstances that attended this transaction, may be enabled, as his Majesty required of them in his speech at the opening of the session, to give advice becoming the importance of the occasion. Were it for my own satisfaction, I might rest contented with the detail that from private accounts I have seen; I could be content with knowing that the fire from the enemy's batteries, which began on the 2d of March, threatened ruin to the town, that the shells were so well directed as to make it demonstration that the engineers of the enemy were well versed in the science of destruction. That the continuation of that bombardment rendered it absolutely necessary for the British army to make some decisive effort: that the resolution taken was worthy the name of Howe, worthy the British spirit. A storm arose, baffled their efforts, and delayed the attack; a storm fortunate, perhaps, for this country, which preserved for nobler ends many brave men who must have perished in an attempt

tempt exceeding human power. When the storm ceased, a new work appeared, of such amazing strength, raised as if by the enchanter's wand, in the space of a night, that wisdom forbade the attack. One hope remained to save the British army, and a retreat by sea was found necessary. To refer to the Gazette, government there tells us, with all the cool indifference with which might have been related the removal of a regiment in England from one place of country quarters to another; that on the 7th of March, General Howe took a resolution to remove from Boston to Halifax; that the embarkation was effected on the 17th without the least interruption from the rebels. My Lords, I do admit the fact; no shot was, I believe, fired from the enemy during the embarkation. Whether this arose from policy, whether from an unwillingness unnecessarily to expose the Provincial army to the desperate valour of the British troops, whom necessity of self-defence, whom the mortification of being forced to quit the place, whom shame, whom every honourable passion must have armed with more than common courage, or whether by some tacit convention between the generals of the opposite armies, which might be very proper, remains untold. But the important fact is told, that Britain has lost the only place of arms from whence she could with advantage begin her operations against the northern colonies; and that Washington, with his army whole, entire, unchecked, unbroken, does possess it. It matters little whether general Howe is gone to Halifax with a few more guns or a few less; some heavy artillery, I am informed, was left: but I will venture to assert, that no army, so circumstanced, ever did make a retreat without some loss and damage of various necessities of war. My Lords, I wish not to excite any unnecessary, unpleasant feelings; but, my Lords, every seaman I have spoken with is in pain for that fleet, so crowded, so short of provisions, forced into a boisterous sea in the most boisterous season. The very storm that was so great in the harbour as to prevent the attack of the enemies batteries, justifies the dread of what may happen. Suppose the army safe at Halifax, can it be supposed they are in a situation capable immediately to take the field? Thus then is the great power of the northern colonies, against whom was particularly pointed the thunder of this country, freed from its present vengeance. It cannot be doubted but that this retreat is of great advantage to the enemy, is a subject of triumph. Will your Lordships then
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not think that the slight manner this matter is related to the public, is a scandalous insult, is a neglect of that public whose blood and treasure are lavished without fruit? I do hope we shall at last rouse, and see with our own eyes, and hear with our own ears, not place any longer implicit confidence in men, who, whatever their intentions may have been, have hitherto not shewn that they possess abilities either to maintain peace, or well conduct a war. Permit me now, my Lords, to take a short review of the present state of America. The army now gone from Boston, the wisest statesman cannot now for a certainty declare, that his Majesty has a regiment in possession of a single post, save that which has wintered in Nova Scotia. Montgomery's death preserved for a time Quebec, yet there are accounts, whose authority there is no reason to doubt, of the beginning of February, that the troops still lay before the place, that the design of attacking it was not abandoned, that reinforcements were coming, that the object was to place a garrison in it so strong as would not be easy to remove, that at Montreal no doubt was made of its being forced to yield. The retreat from Boston leaves Washington at liberty to send large succours, whither the destination was is unknown; but there is intelligence, that the very day our troops quitted Boston, a body of several thousand men was detached from the camp. The relief sent from hence of Brunswick and Hanover troops, if destined for Quebec, cannot arrive there till the breaking up of the ice affords a passage up the river, which, from seamen, I am told, seldom happens till the end of this month. The stroke must probably be decided ere they possibly can reach the place. From Halifax, whose strength is trifling, and whose situation admits not any thing to be done by advancing into the country to the Floridas, nothing remains to his Majesty's arms but the roving parties with which Dunmore continues his predatory war. I will pass no censure on that noble Lord; but I could wish he had acted with that generous spirit that forbade Clinton uselessly to destroy the town of New-York. My Lords, Clinton visited New-York, the inhabitants expected its destruction; Lee appeared before it with an army too powerful to be attacked, and Clinton passed by without doing any wanton damage. The friends of government, as they are termed, did attempt some risings, the Congress puts them out of their protection, individuals raise armies, and all commotions in favour of government are crushed in their birth. Georgia, that till lately took no ac-
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tive part, that last year you assisted with your money, has now declared against you; and as they came late into the service, so they seem willing to be active in distinguishing themselves. Your marines attempt to land, they are driven to their boats, and burn the English traders. In Carolina all is armed, all is strong: the last effort in favour of government, an attempt by a colonel Mason, with a considerable body of men, called regulators, is resisted by an individual, who arms his followers, meets and defeats him totally, and numbers are thrown into gaol. Thus, from north to south, every place presents an enemy; the coast on which your troops are to land is ravaged, is made a wilderness, where not an army of locusts would subsist. You are therefore now to begin the war with an enfeebled army, with the flower of your troops checked, baffled, forced to retreat, you are to attempt to conquer the continent of America: it is as much a war of conquest as if you meditated an invasion on France or Spain. On German mercenaries, on foreign auxiliaries, are you to depend for success in this invasion; on troops not interested in the cause. With these troops so numerous, so secured by treaty to act in a body, is the English army to serve, who will probably be inferior to them in number; for from the English must detachments be made, as the service of the war may require. My Lords, I mean no reflection on these troops, but must observe, that success has seldom attended where those most interested in the cause do not fight their own battles, and from the number of the German troops they must probably be masters of the operations of the war. I cannot conclude without a word to the commission mentioned in the Gazette: what passes the great seal can, I suppose, be no secret: but though I do not know the contents, I do not conceive what powers can be given the commission without some previous assistance from Parliament, that can be *material*. Will the great seal, in face of Parliament, give up any of that authority Parliament has been so anxious to assert? Yet without this, peace cannot be made; or does it merely contain a power of pardoning such as may sue for and be deemed deserving of mercy? Pardon, my Lords, was never sued for by those who, convinced their cause was just, flushed with success, conquest attending on their arms, with troops more numerous than those that are to oppose them, have, in the common course of human probability, hope of continued victory. I will add no more, but that if this unnatural war is long thus ably and obstinately

nately carried on, it is not from Britain America must seek for pardon, but Britain must from America ask forgiveness of the wild ravage her unreasonable claims have made. What I have said to you, my Lords, can arise from no private view, but merely from a sense of public duty; I wish to see this empire not dismembered; I wish to see our Sovereign's diadem blaze with every glory which first encircled his royal head. His Grace moved, "That an humble address be presented to his Majesty, that he will be graciously pleased to order the proper officers to lay before this House, copies of all dispatches received from General Howe and Admiral Shulldham, since the first day of March last."

Earl of *Suffolk*. The true grounds and causes of the present contest with America, have been so frequently and so fully discussed, that I shall not trouble your Lordships to follow the noble Duke through the wide circuit he has taken this day: your Lordships have already determined so often in favour of the justice and necessity of prosecuting the present war against our rebellious subjects in that country, that there can be little occasion to enter at present into any review or fresh discussion of so trite a subject: it is not therefore, my Lords, to controvert matters that have been already decided, that I rise, but to give a direct negative to the present motion, because I am of opinion that it cannot be safely complied with, consistently with the interests of this country and the success of our future operations. The letters desired, my Lords, are not merely confined to the professed objects of the present motion; they contain matters of great importance, as well in relation to past transactions as to plans meant to be carried into execution; these again are so blended and connected with the account of the evacuation of Boston, that it would be impossible to separate one from the other, without laying before your Lordships what would be extremely improper for public inspection at this season, because it might be the means of defeating those measures which the general and admiral have determined to pursue. Nothing, I do assure your Lordships, would give me greater satisfaction than to comply with the requisition now made, if it could be done with prudence and safety; not to gratify a mere idle curiosity, but to shew your Lordships the abilities of the gentleman who commanded the troops, and to convince you that all the reasonings now so strongly urged, have no manner of foundation to support them. Were it proper to lay before your Lordships those accounts, you

would not only be surprized how ably the whole affair was conducted, but you would have reason likewise to have the most perfect confidence in operations so well planned, and so well directed. The noble Duke supposes the account in the Gazette, to contain actual misrepresentations, or a suppression of facts; but I do assure his Grace he is entirely mistaken: it is the business of that paper to state facts, which I contend it has very faithfully, and that the general, as therein set forth, literally took the resolution of quitting the town on the 7th, and actually evacuated it and embarked on board the fleet on the 17th, without any interruption from the rebels; that he carried off his artillery, military stores, all his baggage, and his very horses; that he took such of the inhabitants as sought his protection aboard, with all their most valuable effects, and that species too which might have been of the greatest use to the rebels. The noble Duke supposes that this step will break all our future operations during the present campaign; but I will inform his Grace, that it was never intended to begin the war in that quarter, since the great change which has happened in our affairs there. While the spirit of rebellion was confined to the province of Massachusetts Bay, it could properly be the only seat of war, or coercion; but since the defection became more general, so false an idea never prevailed; in proof of which, I do assure your Lordships, that the general, so early as the month of October, received instructions to quit Boston, whenever he thought proper; in this light, therefore, the evacuating Boston can appear but a shifting of position, for the purpose of carrying into execution measures already concerted and agreed on; the first object of which is to secure Halifax against any attack from the rebels, and whither the fleet and army are now destined. The noble Duke has dwelt greatly on the native prowess and martial disposition of the rebels. I am not very much inclined to throw out reflections upon bodies of men, or to suppose that any of the subjects of this empire are deficient in courage; but farther than that general supposition, I confess I cannot discover any proofs of superior courage the rebels have displayed, either on this, or any former occasion: they were certainly five times the number of the King's troops; they enjoyed every advantage of situation; and yet, for all that, they permitted the troops to embark, and carry off every thing they desired, without the least molestation; their great knowledge in the military art has likewise been loudly trumpeted; but what has been the

the fruit of it? The expertness of their engineers was such, that they threw a bomb into the town which wounded six persons, two of whom are since dead. The noble Duke says, that the misconduct of those who negotiated the Hessian treaty, was the reason that the Hessians have not sailed from Spithead. I do assure your Lordships that the fact is entirely otherwise; for however willing the Hessian general might be to wait for the arrival of the remainder of the troops which were to serve under his command in America, as soon as he received a message from his Majesty, to proceed to the place of his destination, he instantly complied, without expressing the least unwillingness or dissatisfaction. The noble Duke says, there must have been a convention between general Howe and the rebel commander; which, I do assure his Grace, was by no means the case, no convention, stipulation, concession, or compromise whatever, having been made. The general thought proper to shift his position, in order, in the first instance, to protect Halifax, and after that object was secured, to penetrate by that way into the interior country, and pursue his future intended operations, when, instead of a dispirited and enfeebled soldiery, I trust your Lordships will be at once convinced, that the men will exert themselves with the resolution and ardour they have ever manifested in the pursuit of military glory, and that the general will exhibit the most full and satisfactory proofs, that his evacuating Boston was the consequence of a resolution previously taken, on the wisest and best concerted motives.

The Marquis of *Rockingham*. I was in the country when the Gazette, containing the account now so warmly defended, fell into my hands; and though I had no other information to direct me, I confess it struck me as equally ridiculous and improbable. Is there one of your Lordships, though nothing else had transpired relative to the transaction, can be persuaded to believe, that the Provincial general would have ever permitted the evacuation in the manner related, if there had not been an understanding between him and the British commander in chief? But, my Lords, we are not left to grope our way in order to discover what really happened; conjecture alone, if exercised on such circumstances, would amount to proof positive; but there is no occasion to rely upon conjecture or probabilities; there are several letters from officers on the spot, which all substantially contradict what your Lordships have heard this day

those letters may vary from each other in some particulars, but they all uniformly agree in one thing, which the noble Earl in office seems to be totally ignorant of; that is, that the troops were compelled, by the operations of the enemy, to take the resolution of quitting the town; and that they were afterwards permitted to quit it unmolested by agreement: if there was no other proof but one, that alone would be decisive to determine my judgment; the one I mean is, that the general and admiral only waited for a wind to waft them to the place of their destination when the account came away. Why not destroy the town in pursuance of the general instruction, when they thought proper to shift their position? Or if compelled to abandon it, why not raze it to the foundations, by way of retaliation? If there was no convention, no treaty or agreement, how will they answer to government this disobedience of orders? But, my Lords, there are numerous accounts in town, some of which I have seen myself, from gentlemen of no less veracity than either the general or admiral. The account they give is shortly this: That on the morning of the second of March, the garrison discovered that a battery had been raised on Dorchester-Heights the preceding evening, which commanded the greatest part of the town; that the next day [the 3d] the Provincials continued to fire on the town, and annoyed the garrison and inhabitants extremely; that the situation of the troops now became extremely critical, as the fleet could give them no effectual assistance; that a council of war was held the same day, in which it was resolved to attack the Heights of Dorchester, in order to dislodge the enemy, it being universally agreed that the town was no longer tenable, unless that service was effected; that accordingly the proper dispositions were made to carry on the attack the next morning, but that the general had been prevented by a very great storm which arose; that on the next day [the 5th] the select-men went out to general Washington, to treat with him, and that after some messages had passed on both sides, it was agreed on the 7th that the King's troops should evacuate the town, in the manner which afterwards took effect; and that accordingly the troops and such of the inhabitants as chose their protection, embarked on the 17th. If those accounts are true, of which I have very little doubt, your Lordships will perceive, though possibly there might have been no formal convention, or capitulation signed, which I understood was avoided by the generals on both sides,

fides, for particular reasons, that in whatever manner the business might have been negotiated, it had every substantial requisite of a treaty or compromise, as much as if it had been ever so solemnly authenticated or subscribed. The troops were permitted to evacuate the town without interruption, because they engaged on the other hand not to burn or destroy it, either previous to their departure, or after they got aboard their ships. The noble Earl tells you, that the troops have proceeded to Halifax. I should be glad to know what certainty he has that they can proceed there: I presume the noble Lord is not ignorant how very difficult it is to navigate those seas, in that very tempestuous season of the year, just at the time of the equinox, when a constant north-westerly wind sets in. I should have imagined that no man in his senses, so incumbered with military stores, cannon, passengers, troops, &c. would think of such a measure, without he was drove to it by necessity; nor can I be persuaded, that the admiral would have ever consented to so rash an act, upon mere motives of forwarding the future operations of the campaign. Only consider a minute, my Lords, and you must tremble for the fate of both the army and navy: consider how many thousand persons are aboard this fleet, and think what a dreadful circumstance it must be, to have them forced to sea in such a climate, and such a season. I confess I tremble for their fate, and should not be surprized to hear by the first account received from that quarter, that they were either blown away to the West Indies, or had all perished on the dreary coasts of America. Supposing then, that we had no account of the true motives which obliged the general to evacuate Boston, charity would induce us to believe, that he would never risque the lives, nay the very event of the present campaign, perhaps of every future one, upon so senseless, hazardous, and wanton a project. But, my Lords, if the Gazette account bears every mark of absurdity and improbability, the article which next follows it, no less deserves to be treated with contempt. It informs you, that a commission is granted to Lord Howe and General Howe, to offer pardons and restore peace: that is, after the speech announced that commissioners would be sent out to treat with America, for the purposes alluded to, seven months are nearly elapsed, the winter and spring are suffered to pass over, before you hear a syllable of the matter; and then, just at the entrance of the campaign, after the nation has been put to the expence of so many millions, the first step towards peace

peace and conciliation is taken. But this, my Lords, is merely to amuse and deceive, and done purely with a view to persuade the nation, that peace is in contemplation, in order to counterbalance the disgrace the British arms have suffered. I am glad to hear of peace at all events, though when I first read the Gazette of Saturday, I must fairly own I could hardly forbear laughing at the whole account, taken together. Another thing struck me in the appointment of the commissioners. No man has a higher opinion of the bravery and military and naval skill of those gentlemen than I have; but I confess I am yet to learn, if there be any serious intention in government to conciliate matters with America, the propriety of selecting them for the execution of so arduous and weighty an undertaking. I should have imagined, that a fitter choice might have been made; or that others, more conversant in negotiation, would have been very properly added. On the whole, my Lords, I think the Gazette does not contain information sufficient to direct you in your future proceedings. I am satisfied that the troops evacuated the town by compulsion, not choice; and consequently, that the present motion is absolutely necessary, and as such I shall be for giving it my hearty concurrence.

Earl of
Effingham.

The Earl of *Effingham*. My Lords, that Boston was not evacuated from the motives so strongly urged by the noble Earl in office, I trust your Lordships are already perfectly satisfied of. I speak with great diffidence on military matters in the presence of such of your Lordships, as from your long experience are enabled to be so much better judges; but as nothing has been offered on that part of the subject, your Lordships will, I hope, permit me to state my reasons why I think it was totally impracticable for the troops to remain any longer at Boston with safety, or to quit it without burning the town, or suffering the total loss of their rear guard. The battery opened on Dorchester heights, supported by that long since raised on Phipps's farm, commanded the greatest part of the town, and upwards of two-thirds of the beach, from which the army was to embark. On the other hand, the batteries on Noddle's Island, rendered the state of the fleet so very uneasy, that it was impossible for either the army or navy to remain any longer in their former situation without being compelled to dislodge the enemy. This was what the Provincials wanted; because, should the attack miscarry on the part of the royal army, its destruction would be inevitable, while all the Provincials risked was the loss of a few

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few men, and returning to their former stations. The general was perfectly apprized of this; and accordingly, after taking the sense of a council of war, determined to attack the heights of Dorchester. Your Lordships have been informed that a storm prevented him, and I believe it was very fortunate it did, for in all probability it would have terminated in the destruction of the whole army. This intention being thus abandoned, there remained but the alternative of entering into a convention, no matter whether by writing or parole, or of setting fire to the town, and under the interruption such a conflagration must have occasioned, escaping aboard the ships and transports lying in the harbour. Even in this event the slaughter must have been great, and the whole rear guard, as I observed before, must have been sacrificed to the preservation of the rest of the army, and probably the body posted at Bunker's-Hill would have been made prisoners. This was the alternative left to General Howe, and fortunately he embraced that part of it which was the means of saving the town and the troops under his command. Any person in the least conversant in military matters, and who has seen the plan of Boston and its environs, will immediately perceive, that if some treaty had not taken place, this or something similar to it would have been the consequence. To endeavour, therefore, to mislead your Lordships with any idea that the army came off unmolested in triumph, is too gross even to call for detection. To make one observation more: will the noble Earl pretend to say, that it was from motives of tenderness that Boston was not burnt, or that it was impracticable to do it without loss? His Lordship will hardly seriously affirm the former to be the case; and if he should insist on the latter, I will inform his Lordship, that nothing on earth could be more easily effected; for if the army had nothing to fear from the Provincials in the event of an open deliberate embarkation, they would still have less to fear by setting the town on fire, for they might have filled the houses with combustibles, so as totally to have blown up and destroyed it. But, my Lords, supposing that the Gazette represented matters as they really happened; suppose that the troops embarked in the face of the enemy, without compromise, and without interruption, will any noble Lord in office rise and say, that he believes general Howe is safely arrived at Halifax? Is it not much more probable that the fleet is blown to Antigua, is separated and dispersed by storms, or

is now tossing about in the Atlantic ocean? If even the troops should have an expeditious and favourable voyage to Halifax, how will they draw provisions from a country far from being fertile, and at present much exhausted from the frequent supplies sent to Boston? or allowing them to be safely landed, and plentifully provided with all the necessities of life, how will they be able to maintain their ground against a superior force? Possibly Halifax will be in the possession of the Provincials before they reach it; but granting it should not, it is well known that Halifax has no regular defences; that it is only surrounded by a ditch, strengthened by pallisadoes; and that the buildings are all composed of wood; so that taking the matter in any light, the measure is full of danger; for either the superior force of the Provincials may easily force the works, or if they chuse to act more cautiously, they may with little trouble, and less risque, reduce the wooden buildings to ashes. Those, my Lords, are no more than so many suppositions, far from being supported by any grounds of probability; for I doubt that the troops will ever reach Halifax; and I am well persuaded if they do, that, as at Boston, administration will be obliged to supply them with provisions from Leadenhall-market.

Earl of
Shelburne.

The Lord Wycombe [Earl of Shelburne]. My sentiments respecting the present unnatural war carrying on against America, are already sufficiently known. I have all along looked upon it to be cruel, unjust, inexpedient, and oppressive; and I am confident, if obstinately pursued, that it will end in the destruction of both countries. For the reasons that have been already so ably stated by the noble Duke who made the motion, I came down this day to second it. I think it highly necessary that your Lordships should be fully informed, otherwise how is it possible you can be enabled to give your advice to your Sovereign? If I even entertained a better opinion than I do of the abilities of those in power, I should still think that they do not possess all the wisdom of the nation. Your Lordships are the constitutional great council. It is your duty and your province, as the hereditary counsellors of the Crown, to consult together, to deliberate and advise. How is it possible that you can discharge this important trust without proper information, and a previous knowledge of the facts on which you are to determine? The noble Earl says, the plan of future operations is so blended and mixed with the mere detail of the evacuation

cuation and embarkation of the troops, that it is impossible to give one without disclosing the other. This, my Lords, is a new language to me, either as an official man or a member of this House. I know, when I had the honour to serve his Majesty, I looked upon it as an essential part of my duty, and was prompted by inclination, to give every possible information to your Lordships whenever you called for it. I was always proud of an opportunity of gratifying the House in this respect, because I looked upon it to be the best test of the purity of my intentions, how much soever it might tend to impeach my judgment. This I know was the uniform language of ministers during the late reign; and I remember too their conduct exactly corresponded with their professions. I recollect a particular instance of it respecting Abercromby's defeat in the height of the late war, when Lord Chatham caused every particular of that melancholy event to be announced in the Gazette, in the very terms he had received it. He did not confine himself to the mere fact, that an attack had been made, and that it proved unsuccessful; no, my Lords, he committed himself to the public. He did not look upon himself responsible for victory; he laid the whole detail open to the inspection of the nation at large, and by so doing he ensured that confidence which a contrary conduct would have certainly deprived him of. It has been reserved, my Lords, for the present ministers to either withhold all information, or suppress every thing that does not answer their immediate purposes. They refuse to tell you any thing; or if they do, they will only tell it you in their own. The Gazette says, that General Howe embarked without the least interruption. Granted: but does it say or assign any reason why the troops were not molested? No, it is entirely silent on that head. But suppose that the fact was really as it is represented; that the troops were not molested, nor that there was no convention or treaty whatever: I think I could account for it, on motives very different from those assigned by the noble Earl in office. His Lordship asserts, that it was owing to the great abilities and military skill of the commander in chief. No man entertains a higher opinion of both than I do; but I think it may be easily accounted for, without attributing it either entirely to that, or to any backwardness in the Provincials. I remember a very great man who died fighting in the cause of America [Dr. Warren] in one of his publications, advises his countrymen to a defensive war. May we not then

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well suppose, if the matter cannot otherwise be accounted for, that General Washington, acting on the same principle might wish that the royal army should depart from Boston without any further consequences? If it has evacuated Boston in the manner published by authority, and without any convention or stipulation, the conduct of the Provincials can only be accounted for on the principle I have now mentioned, that of acting on the defensive. But, my Lords, I can hardly persuade myself that this was the case. I am rather inclined to believe, that the troops were permitted to embark without molestation, in return for saving the town. Yet, my Lords, allowing all the Gazette has told you to be literally true, what a melancholy picture does it hold out? It is indeed, my Lords, of a piece with all the rest. It is like sending Sir Peter Parker at a season of the year in which it was a hundred to one that he ever reached the place of his destination. The event has proved the folly and ignorance of those who planned this desperate expedition. First, that gentleman received orders to proceed. He was then countermanded, and again desired to adhere to his first instructions. He at length sailed, and the first account that we have received of the expedition is, that his fleet was dispersed in a storm; and that the commander, and the shattered remains of his squadron, have taken shelter in Antigua. Such, my Lords, has been the unhappy fate of an armament, on which such great expectations were formed; and such, I fear, will be the fate of the measure your Lordships have heard this day so highly extolled. This country, already burdened much beyond its abilities, is now on the eve of groaning under new taxes, for the purpose of carrying on this cruel and destructive war. Two arguments, both plausible, but both equally ill-founded, were made use of by the minister in the other House, on the principle and mode of taxing. It was said, the kingdom was in a most flourishing state, therefore was able to bear additional taxes. It was urged, since taxes were to be levied, they ought to be laid on the luxuries of life. On the first head, I shall ever continue to think the very reverse, while the arguments of a late writer [Doctor Price] remain uncontradicted; nor shall I ever be persuaded that stage-coaches, deeds, or news-papers, come within the description of luxury, however confidently asserted. The definition of luxury I have been always taught to be simply this, the growth of foreign countries, articles alone of foreign importation; not the produce of this

kingdom, or the effects of national industry. I do venture to assert, that the event will prove, that this country is already taxed to its full extent, and that every new tax you can devise, will interfere with some other, and only vary the mode of collecting the taxes, not increase the receipt. I must confess, it is perfectly new to me to be told, that deeds, leases, and indentures, are different species of luxury; if they are, I know of no transaction whatever that may not be brought within the same description. I believe the contrary requires no proof. A person in the law, whose business is far from being extensive, has assured me, that this tax will be very severely felt, and that it will make a difference of thirty pounds a year even to him. The noble Earl who has this day entertained your Lordships so ably tells you, that General Howe has only *shifted his position*; that he is gone to the relief of Halifax, which is in a defenceless state. Why was that place, from which such wonders are to be achieved, left in a defenceless state? or why trust its security to the precarious relief of succours sent thither at so dangerous and boisterous a season of the year? Even allowing the noble Earl's facts and arguments to be exactly as he has stated them, I am yet to learn the propriety of the phrase "shifting a position." From the little of military operations I have been acquainted with, I never understood an actual abandonment of an enterprize to be shifting a position. On the whole, my Lords, as I look upon the war itself to be cruel, unjust, oppressive, and vindictive; so I look upon the conduct of it hitherto to be contrary to every rule of sound policy, prudence, and common sense. I think it is full time therefore that your Lordships and the public should be made acquainted with the true state of our affairs in America; for which reason, as the first step towards it, I heartily concur in the motion made by the noble Duke.

The Earl of *Suffolk*. The noble Earl [Effingham] has ^{Earl of Suffolk} expressed his astonishment, that no dispatches have been ^{suf-}sent to General Howe for some months; and the only proof he has brought, in favour of this assertion is no more, than that no dispatches have reached him; and that he was at the time of the evacuation of Boston totally ignorant of every thing which passed in Europe, since the meeting of Parliament. The noble Earl has likewise stated his fears for the army and fleet, under the command of General Howe and Admiral Shuldham, on account of the dangers of the sea, and uncertainty of the winds and waves. Now as in one instance

his Lordship has laid such great stress on the difficulties to be encountered on the watery element, might not the noble Lord, by a parity of reason and similarity of conclusion, have been led to suppose, that dispatches had been sent to General Howe, though none of them had reached him, previous to the date of this last letter? I observe too, that the noble Earl and the noble Duke who made the motion, have insisted much on the disgrace of quitting Boston, and represented it as productive of the most fatal consequences. This, I confess, appears to me a little extraordinary, that the noble Lords should so suddenly change their sentiments. While we retained possession of that town, it was disgraceful to have a British army cooped up in it. It was called the grave of the British soldiery. It was represented as an insignificant spot, of no consequence, in which we were wasting our blood and treasure to no purpose; but now, all of a sudden, the evacuation of it is magnified into an actual loss, and that loss again represented no less disgraceful to our arms, than destructive to the success of our affairs in that country.

Lord Visc.
Weymouth.

Lord Viscount *Weymouth.* I should not have troubled your Lordships upon the subject of this day's debate, were it not to prevent the noble Lords who have supported the present motion, from imputing the silence of administration to sullessness, or any want of attention. It is purely to obviate such an ill-founded imputation, that I rise to declare in a few words my reasons for giving a negative to a motion, which may be the means of laying any information before your Lordships, not fit for public inspection. I am sure the letters now desired would certainly come within that description, because they contain a plan of the general's intended operations. The account in the Gazette, is, I think, fully sufficient. It tells you, that the general formed the resolution of quitting Boston. It tells you, that he effected it without the loss of a man; and that he brought off all his baggage, artillery, ammunition, stores, &c. The noble Earl has informed your Lordships very truly, that it has, for several months, been determined to alter the plan of operations, as the state of affairs in that country have made such an alteration necessary. The general has accordingly evacuated Boston, not because it was not tenable, but because the service required his presence elsewhere. To explain his reasons therefore, for embarking aboard the fleet in order to proceed to Halifax, would be in fact disclosing what it is the interest of this country most earnestly to prevent. It would be disclosing no less than the whole plan of his future operations. Before I sit down, I cannot

cannot avoid observing, that the noble Duke and another noble Lord who spoke on the same side, have given the strongest testimony in favour of the military capacity of the general, and the bravery and spirit of the troops. The noble Duke says, that the embarkation was effected with the cool indifference which attends the removal of a regiment in England from one place of country quarters to another. The other noble Lord, who was bred to the military profession, [Lord Effingham] has expressed his wonder and astonishment, how it was possible for the general to bring off his troops without great loss and slaughter on both sides. I shall say no more, my Lords, but to repeat, that I think the account in the Gazette contains a true state of the transaction; that a fuller could not be given, without revealing matter which we should wish to conceal from the enemy; and that for this last reason alone I shall be against complying with the present motion.

Lord *Ravenworth*. I am very unwilling to trespass on Lord *Ravenworth*'s your Lordships' time at this late hour of the day; but I cannot help rising to express my astonishment, at the language held by the servants of the crown on the present occasion. Though I heartily disapprove of the war, because I look upon it to be founded in injustice, as depriving the people of America of both their liberty and property, as long as your Lordships continue to approve of it, nothing should be omitted on the part of administration to render it successful; and I allow there is nothing they should more cautiously avoid, than giving any information which might tend to obstruct or defeat the execution of their measures. It is for this reason, that I think the noble Duke's motion much too general and extensive; and if his Grace will permit me, I will propose an amendment, to confine the information now desired merely to the evacuation of Boston, and the measures preparatory to it. [Here his Lordship, to shew that the uniform usage of office during the late reign, was to lay the whole dispatch nakedly before the public as it was received, produced several London Gazettes, and read their dates, containing an account of the battles of Hastenbeck and Fontenoy, Braddock's defeat, and the slaughter of the British troops at St. Cas.] In this last instance I recollect, the great man who then directed our public affairs was so careful to inform the nation of that fatal disaster, though he received the account late at night, in bed, he instantly rose, and ordered it to be copied and sent to the printer of the Gazette the same night, giving particular directions that a Gazette extraordinary should be published. This was the

the conduct of Lord Chatham, and of every preceding minister, since ever I can recollect any thing of public affairs. Whatever motives administration may have for suppressing the detail now called for, I cannot conjecture. I know it bears the most unfavourable appearance. I am resolved, however, to put them to the test, by amending the motion, in such a manner as will not leave it in their power to refuse, without tacitly confessing that they wish to conceal what your Lordships and the public have an indubitable right to be acquainted with. After the motion, as it now stands, I shall therefore move the following amendment, "so far as do not relate to the intended operations of the present campaign."

Earl of
Suffolk.

The Earl of *Suffolk*. I must be against the amended motion, for the same reasons I urged against complying with it in its original state. The narrative relative to the evacuation of Boston is so blended and mixed with the concerted plan of operations, that it is impossible to separate them, so as to give the information desired, without at the same time disclosing circumstances not proper for the public.

The question was then suddenly put, on which an alteration arose between the Lord Chancellor and the Duke of Bolton; the latter insisting, that the question ought to have been put separately on the motion and the amendment; and the former contending, that as the noble Duke consented to the amendment, both now made but one question.

Duke of
Bolton.

The Duke of *Bolton*. Since the beginning of the present unhappy dispute with America, I avoided to take any decided part on either side. I am far from approving of the cause of the war, much less of the manner in which it has been conducted; yet I have remained silent to this day, and have never voted once but in favour of the restraining bill, which I thought a very proper measure at the time. I cannot say that I approve entirely of the motion, either in its original or amended state. It was at first much too general; nor does it at present come up entirely to my ideas; for I would have it specifically confined to the evacuation of Boston, as there may be several matters and transactions that happened from the 1st to the 17th of March, besides the mere evacuation, not proper to be divulged. I think, if the motion had been simply confined to that object, administration could not, with any colour of decency or propriety, have refused to satisfy the public. It would have been a ground of just suspicion if they had. I cannot but lament the conduct of our naval affairs, so far as they respect America, particularly when your Lordships reflect, that the very mortar which drove the King's troops

troops out of Boston, was permitted to fall into the hands of the Provincials through inattention and neglect. I do not see the noble Lord [Lord Townshend] who presides at the board of ordnance, this day in his place; but I am informed, that if he had complied with the application made to him, this important loss would have never happened. I think the name of the transport was the Nancy, or the Peggy, the master of whom, as soon as he learned that this mortar was to be put aboard him, immediately waited on the master general of the ordnance, [the noble Lord before alluded to] and acquainted him with the defenceless state of his vessel; adding, that if attacked only by an armed boat, he must submit; to which the noble Lord returned no other answer, but referred him generally to the secretary of state. This, among many others of a similar nature, is the fullest proof how little attention was paid to this service. I will not pretend to impute the fault to any particular person; but it is matter of melancholy consideration, that through negligence or incapacity, more than one half of the implements of war sent to that country should be suffered to fall in the hands of the enemy; and what is still worse, that they should be employed in the expulsion of the very troops for whose use they were intended.

The Earl of *Sandwich*. I entirely agree with the noble Earl of Sandwich, Earl, and noble Viscount, who have stated their reasons, shewing the impropriety of complying with the present motion. I should not have rose, however, were it not to explain and answer a fact or two, urged by a noble Lord on the other side [Lord Shelburne] and the noble Duke who spoke last. The noble Lord says, that contradictory orders were sent to Sir Peter Parker; that he was delayed by those orders; that he was sent out at an improper season; and that his fleet was blown away to the West-Indies. I do assure the noble Lord, that he is totally misinformed, as to some of his assertions. Sir Peter Parker received no contradictory orders, nor any orders but those under which he failed. I had no hand in advising that expedition; nor am I at all answerable for the event. I am convinced it was wisely and ably planned; but I am likewise convinced, that it will never answer the expectations first formed on it. As to the matter alluded to by the noble Duke, relative to the mortar which has fallen into the hands of the rebels, I have nothing to charge myself with. The transport, aboard which it was shipped, failed under convoy. She parted company, and again fell under convoy; and so a third time, till at length she was blown on the coast of America, where she was made a prize of by the rebels.

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These are accidents against which no human foresight can provide; and which I am persuaded the noble Duke is fully satisfied, it is impossible to prevent.

Duke of
Bolton.

The Duke of *Bolton*. The noble Earl has certainly misunderstood me. I never meant to say that the transport and mortar had been lost for want of a convoy, because I know the contrary. I spoke of a fact, which cannot be contradicted. I spoke of the application made to the noble Lord, and the neglect of not attending to it. I say, that if the transport had been *armed*, that very mortar, which drove the King's troops out of Bolton, would have been employed *for*, not *against* them. So it would have been in the case of the artillery, ammunition, &c. I remember well, that the transports during the late war were armed; and I appeal to the noble Earl, though the naval force serving on the American station is in a proportion of nearly three to one to what it was last year, that not contented with this increased protection there, as well as convoys from hence, whether his Lordship has not taken care likewise that no transports are permitted to sail to America, until they are first put in a state of defence against the American cruizers. This the noble Earl has gained by experience; happy for both countries, perhaps, if this method had been adopted earlier.

The House divided: contents 27, non-contents 64. Adjourned to the 13th.

May 13.

Earl of
Effingham.

The Earl of *Effingham*. The motion I am now going to submit to your Lordships, is the same I offered to your consideration on Friday last, but which I then thought proper to withdraw, as several of your Lordships retired as soon as the debate was over. I would wish to be perfectly understood, that I by no means intend to point this motion at any particular person; on the contrary, there is nothing I shall be so solicitous to avoid, as even the appearance of such a procedure. I think proper to inform your Lordships, before I proceed any further, that on account of the variety of objects which this motion will embrace, the number of papers that will be requisite for a full investigation of the subject, and the session of Parliament being now hastening to a conclusion, that it is not my intention to proceed farther in his business, than barely to procure the materials this session, in order that your Lordships may have the proper information to enable you to enter into the enquiry early in the next.

Most of your Lordships are already acquainted with the purport of my intended motion: and I should rest here contented myself, with saying no more on the subject, if I did
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not think I was in some measure called upon, to assign the motives which induced me to take the active part I have done in this affair. I do assure you, and I trust your Lordships will believe me, that I should never have taken up your time, if the object of the present enquiry was of a light or trivial consideration. If it had been a petty malversation in office, any neglect or inattention to duty, any blunder or mistake arising from hurry and ignorance; had it been a little oversight in office, or even an extension of their powers for the purpose of letting officers and others have any of the little comforts of life, over and above what might be strictly called *stores and provisions*, your Lordships would never have heard a syllable of it from me. But, my Lords, when not only the act in question has been evaded, misinterpreted, and violated in the most gross and flagrant manner; but that the law seems to have been enacted, solely with a view to give ministers an opportunity of breaking it, in order to transfer the trade of America from its wonted channels, from the respectable merchants of the city of London, and vest it in the hands of a few obscure mean persons; I hope, in the discharge of my duty, as a member of this House, and the duty I owe the public, to watch over the rights of every individual and class of men which compose the great community, that I shall stand excused in your Lordships' judgment. I look upon myself still more strongly justified on this ground, when I can add from good information, that if this illicit commerce had not been timely discovered, and early checked, the trade of Great Britain would have been turned into as complete a monopoly, as that carried on by the East-India Company, or any other Company; and that the exports in that way would amount to a value little short of what they were previous to the passing of the act, when the trade was open and unrestrained.

I do not wish to anticipate the information your Lordships will receive in the course of the enquiry; but as general assertions, however respectable, can pass for no more than assertions, I hope your Lordships will permit me to state a few facts, in order to convince you that there are full and sufficient grounds for the present enquiry. The bill for prohibiting all the trade and commerce from this country with North America, your Lordships must remember, contained a clause to permit the exportation of stores and provisions for the use of the troops serving at Boston, and likewise an exception in favour of the provinces of Canada and Nova Scotia, and a general liberty wherever the troops might be stationed in the

course of the future operations of the war. This, in my opinion, my Lords, was a very proper and necessary clause; and if this clause had only been for the granting reasonable indulgencies to the army, I do not think the matter would be worthy of your Lordships' serious attention; but when this indulgence was turned into a state engine to ruin the fair trader; when under the covert of this clause, the trade to America was turned into a monopoly; when the very persons who were the framers of the act inserted the clause with a view to defeat the professed objects of the act itself, it is impossible but your Lordships must be desirous to sift this matter to the bottom, and remain astonished at so daring a violation of the law. It is to convince your Lordships that I do not speak without sufficient authority, that I desire the clerk may read the licences granted to two vessels, with the schedules of the cargoes annexed. [Here the clerk read the schedules, by which it appeared, that linens, woollens, cutlery, mercery, millinery, haberdashery, groceries, and a variety of other articles not at all coming within the description of stores or provisions, had been permitted to be exported under the authority of those licences.] I shall not expatiate, my Lords, on the matter which has now come out in evidence before you, because there is one more which I shall move to have read, that will still encrease your astonishment; and when your Lordships understand who were the persons selected by administration, your Lordships will be no less surpris'd. One of them is a Mr. Anthony Merry, a man totally unknown in this branch of trade; a man, I dare venture to say, who never was in possession of the hundredth part of the value of one of the cargoes he was so fortunate to procure a licence to export. But, my Lords, this man is not confined to the exportation of haberdashery and millinery goods; it was said in the other House that he had exceeded his powers, by buying any thing except stores and provisions with the treasury letter; it is necessary to observe that it is very extraordinary he should still be employed by government after such an abuse. He is likewise a contractor; for when his presence was lately required in the House of Commons, to give evidence touching this very business, it came out in proof, whether it was so or not I will not pretend to say, that he was down at Milford Haven, contracting for oxen for the use of the army and the navy. Another circumstance relative to this Mr. A. Merry I should have mentioned to your Lordships, because it points out the consequence of the man, the light he was held in as a trader, and the favour that was shewn him by people in power. It is, that when he

went about among the tradesmen and manufacturers, to sue for credit, he produced a letter from the secretary of the Treasury, desiring that he might have goods on credit to the amount of 3000l. The other person employed in this business was a Mr. Christie, a Virginian, son, if I do not mistake, to Col. Christie, who acts as second major-general in Canada. This gentleman, still, if possible, less known than Mr. A. Merry, because, as I am informed, he never before made an entry for America, is the other favoured person, who was selected to carry this jobbing scheme into execution. [Here his Lordship desired that the licence granted to the *Jameson and Peggy*,* with the schedule annexed, might be read, and a letter to the commissioners of Customs of February the 7th, signed G. Germaine, and the new licence granted on the 10th of April, in lieu of a former one granted, in March, but afterwards recalled as being too general.] By this letter, my Lords, you will perceive that his Majesty's name seems to have been unwarrantably made use of. You will likewise see, that the effect of calling in the first licence, though worded in more specific terms, was authorising Mr. Merry to export goods to the amount of several thousand pounds more than was permitted by the first licence; and your Lordships will perceive, that the manner Mr. Merry executed the contract for his Majesty, was providing for him, instead of stores and provisions, great stores of blankets, nails, sheeting, gauze, pins, needles, silk, teas, Osnaburgs, Russia duck, blonds, linen and woollen

* The case of this ship is an instance of the method made use of to cover the manoeuvre. Her first licence is granted on March 6th for a cargo to Boston, the whole amounting to 16600l. of all which only 750l. was in strict conformity to the act; the remaining 15850l. was partly in some indulgencies, as wine, tea, sugar, &c. but much the greatest part is by no means to be included in the meaning of either *stores* or *provisions*. Between the 15th of March and the 2d of April, her licence is stopped, as being too general; on the 10th of April a new licence is granted, the words of which begin with, "Whereas by his Majesty's pleasure, signified to us by Lord George Germaine, of the 7th of February last, the ship *Jameson and Peggy* is taken into his Majesty's service; we do therefore, &c." Then follows a schedule of her cargo, exactly word for word like the former one of the 6th of March, with the addition at the end of six articles, to the amount of 10,000l. all contrary to the act; so that she had new goods to the value of 26,600l. of which only 750l. were properly *stores* or *provisions* within the meaning of the act.

cloths, and in short, every thing that had been formerly exported from this country to America. I am much obliged to your Lordships for your kind indulgence. I thought it necessary to say thus much, lest you might imagine that I had taken up this matter upon common report. To convince you that I have not, I have just submitted this slight sketch of the transaction on which this motion is grounded. It is now evidently too late to take up such a business, or proceed on the enquiry. The preparing the proper documents would require five or six days, and from the great variety of matter they must contain, and the number of witnesses that must necessarily be examined, I should rather wish that the papers called for were laid before the House before your Lordships were prorogued, and that the whole may be taken into consideration early in the next sessions. His Lordship moved for laying before the House, an account of all licences granted by the boards of Treasury and Admiralty for the exportation of provisions and stores to North America since the prohibitory act.

Earl of
Denbigh.

The Earl of *Denbigh*. My Lords, if I thought there was the least foundation for the present motion, there is not one of your Lordships would be more eager to go into the proposed enquiry than myself; but the matter having already undergone the most minute examination in the other House, and it having appeared that there was not the least foundation for the general report spread concerning this business, I would be much better pleased that the noble Earl would defer the motion, as well as he had proposed to defer the enquiry, till the next session; and I will tell you, my Lords, my reason. This motion, however ill founded, certainly contains some degree of censure on those who are supposed to have been concerned in it; the consequence of which will be, that the papers being moved for, and the matter lying over till the next sessions, it will get out in the world that the licences in question have been granted on improper and corrupt motives. I should therefore think it much more fair and parliamentary, as the matter, according to the noble Lord's own account, cannot be examined into before the Parliament rises, to postpone the motion till it shall be accompanied or followed immediately by the enquiry. For my part, by what I can learn, I see no solid foundation for treating this matter in a serious light. It seems to carry something with it peevish and malignant, which I shall be always solicitous, whenever it comes in my way, to discourage. Not that I suppose the noble Earl who has moved for the papers, was actuated by any such motives. On the contrary, I am persuaded that his Lordship has been misinformed;

formed; and on that misinformation, has been led to interest himself in a business, which, if he was fully master of, I am inclined to think he would never have engaged in. I am convinced, from what has already come to my knowledge, that instead of censure, the granting the licences will do administration the highest honour; nor will it do them less honour, that immediately on their learning that an improper use had been made of them, they called them in. Besides, my Lords, what does the complaint amount to? That a few articles, not directly coming within the description of stores and provisions, were permitted to be exported. There was, my Lords, some pins and needles, and three hundred weight of Scotch snuff sent out; and there was a considerable quantity of tea. We will not suppose that some of these articles were sent out for the use of the soldiery; but would your Lordships think it worth while to go into a solemn enquiry, about matters of such trifling consideration? or would you wish to pass a tacit, much less a direct censure, on those who granted the licences, though on a more minute examination, they would be found deserving of thanks. I would not, however, be understood to have the least inclination to put a stop to the enquiry. Nothing can be further from my intentions. If there was the least foundation for the charge, none of your Lordships would be more desirous to come at the truth, and punish the offenders. On the other hand, as I am persuaded that there is nothing which has been done in the affair sufficient to lay any just ground for the motion now made, I think it incumbent on those who are pointed at to do every thing which may tend to justify themselves, and prove their own innocence. The only reason which induced me to rise, was, to suggest to the noble Lord who made the motion, that there was nothing appeared on the examination in the other House that was worthy of your Lordships' attention; and even though there should, that it would be much more proper to defer the present motion till accompanied with the proposed enquiry.

The Earl of *Sandwich*. Though I had no direct hand in Earl of granting the licences which are made the subject of the pre- *Sandwich*. sent motion, I look upon myself in some measure called upon to inform your Lordships what I know of the matter, as they were issued from the board at which I have the honour to preside. Your Lordships will permit me, however, before I speak to the question, to say a word or two as to the propriety of making it at this time, just at the eve of the rising

rising of Parliament, as well as the mode in which the noble Earl has thought fit to introduce it. The noble Earl has told you, that the shortness of the time, considering the great mass of matter to be enquired into, and the necessary delay the preparing the papers would take up, will not permit your Lordships to enter into the enquiry this session. Now, my Lords, since this was the case, I should imagine it would have been acting with greater fairness and much more propriety, if the noble Earl had deferred the motion, as well as the enquiry, till next session; and I will tell your Lordships the reason: here a motion is made just before a prorogation, the charge it contains is, that an act of Parliament of the first and most general importance is broke through by the connivance, if not under the direct orders of administration; that the motives which led to it, were to establish a monopoly to the detriment of the fair trader; and for the purpose of carrying into execution the most corrupt and infamous species of jobbing. By the motion now made, it will get out into the world, that there must be at least some foundation for this charge: the injury is in part compleated; the charge is made, and administration must suffer under it, and be depreciated in the eyes of the public, till they have an opportunity, perhaps at the end of several months, of manifesting their innocence. It is therefore on this ground, my Lords, that I think it would have been much more fair and parliamentary, for the noble Earl to desist from making his motion till those involved in the accusation had an immediate opportunity of making their defence. The other part of the noble Earl's conduct is, I think, much more exceptionable; not contented with stating the charge, which is fully contained in the terms of his motion, his Lordship has entered into a kind of proof of the several parts of it: this surely is prejudicing your Lordships; is misleading the public. His Lordship has arraigned the conduct of administration, without hearing them, and has endeavoured to preclude the objects of enquiry by a prejudgment as unfair as unprecedented. Thus, my Lords, the charge is made several months before it can be examined; and, what is still more extraordinary, the facts are endeavoured to be substantiated, without a possibility of being able to set the transaction in its true light. I know this procedure not to be at all consistent with the noble Earl's usual candour, which would have been much better exerted if he had deferred the motion till it could have been accompanied with

with the enquiry; or having made it, that he had refrained from entering into the merits, till the nature and foundation of the charge had been first fully examined.

My Lords, the licences under which the several articles enumerated in the schedule now read, were granted indiscriminately to all who applied for them, without any preference or partiality whatever; and as indiscriminately called in, when it was discovered that an improper use had been made of them; and the vessels loaded under their authority, stop-

ped from proceeding on their respective voyages, and their cargoes ordered to be relanded. If any thing improper, therefore, was done, administration stand clear of the least imputation; for as soon as they found that any abuse had been committed, they immediately put a stop to it. The first ship that sailed was the charity ship, designed for the relief of wounded and maimed soldiers, their wives and families; and the widows and children of those brave men who

fell in the service of their country. I am confident there is not one of your Lordships who would object to so humane and beneficent a plan; nor do I believe there is a person within or without these walls, would condemn or arraign administration, though the clause had been stretched beyond its literal import, in order to relieve objects every way so well worthy of public compassion and relief. The next, I believe, was a storeship, actually taken up in his Majesty's service, if I do not mistake; and the third, on which your Lordships have heard such great stress laid this day, was freighted with such articles, as was believed might be wanted for the use of the officers, their wives, and the inhabitants.

This, my Lords, was the idea administration proceeded on. They never imagined they were transgressing the act, by granting so proper an indulgence, under such circumstances.

Nor would they ever have thought of making any enquiry, if such large entries had not been made, and so many licences applied for. It was not the quality of the goods and merchandizes that first induced administration to recall the licences; it was the great quantities, and the repeated applications for more licences, that first created the alarm. The noble Earl has laid great stress on the exception in the act of Parliament, respecting stores and provisions; for my part, if the indulgence had not been abused in the manner now explained, I should differ very widely on the intended and obvious meaning of those words. I take provisions to be any thing, taken in at the mouth, for the sustenance and
comfort

comfort of the body ; such as eatables, liquors, and drugs of all kinds. I take stores, in the liberal and true sense, to mean cloathing of every sort and denomination. I do therefore repeat again, that if no more goods or merchandizes had been exported, or attempted to be exported, than what would have answered the consumption of the garrison of Boston, and the inhabitants thereof, I think the licences granted would have been justifiable in every respect. Besides, if we examine the words, they contain a very loose and indefinite meaning, and I doubt much, whether any species of merchandize you could mention, might not be included in them. The whole clause taken together is ambiguous, and apparently wants that precision necessary to render it easily understood.

My Lords, whatever unfairness and want of candour there may be in pressing the motion at this season, and prejudging the merits, in order to injure those against whom it is directed, I would be much better pleased, that the motion should be complied with, than an opinion should prevail without doors, that administration had the least wish to stifle the enquiry. For my own part, I am the more eager, because the licences were granted by a board, of which I am a member. I have, I do assure your Lordships, no reason to dread the enquiry. I am prepared to meet the storm, whenever it shall arise. I can solemnly declare, that I have no particular knowledge of the persons who obtained the licences. I am satisfied they were equally unconnected with the other members of administration, who, I have not a doubt, knew no more of them than myself. If there was a job, it was a job of individuals, who abused the indulgence intended by the clause, and employed it to their own particular purposes. I repeat once more, that the licences were indiscriminately granted, and indiscriminately called in ; and to convince your Lordships that this is the true state of the matter, though I heartily disapprove of the manner this business has been brought forward, I beg that the noble Earl, and every other Lord who chuses it, may be gratified with an inspection of the papers, and every other document which may tend to set the whole in its true light, than which there is nothing I more sincerely and earnestly desire.

Earl of
Effingham.

The Earl of *Effingham*. The noble Earl who spoke last but one [Earl of Denbigh] has said, that the treatment the same motion met with in the House of Commons proved, that it was there thought to be futile. I think there were two

two

two reasons for the committee of that House coming to no resolution. One was, their thinking the motion futile; and the other was, a majority chusing to suppress it. Your Lordships may think them equally probable, but from circumstances which I know, I am inclined to attribute their silence to the latter motive. I differ very widely from the noble Earl, in thinking the objects of the present motion of no consequence. I look upon them to be of very singular importance; nor can I ever be persuaded that administration could have been so far misled as to undesignedly grant so dangerous a monopoly to a set of obscure persons, by mere chance, inattention, or accident; or to a set of mean, obscure persons, with whom they were totally *unacquainted* and *unconnected*.

The noble Earl who spoke last [Lord Sandwich] has supposed, that the present motion was made purely to arraign the conduct of administration, and has accompanied this assertion with proofs drawn from the manner in which it has been brought forward. He has gone a step farther; he has supposed that I wanted to mislead your Lordships, by substantiating the charges before they were proved. I do assure you, my Lords, that nothing could be further from my intentions. When I made the motion, I thought it a duty I owed your Lordships to explain the grounds and motives on which it was moved. I believe such a conduct is always usual on similar occasions. I trust, therefore, I shall stand clear in your Lordships' judgment, from any imputation of unfairness, or any desire to mislead or prejudice those who are supposed to have had any hand in this business. I imagined my conduct would have received a very different interpretation; for were I to have given way to my own sentiments on the occasion, I think I could have laid open such a scene of iniquitous jobbing, as would have astonished your Lordships to the last degree. The noble Earl has said, the motion and the enquiry should have gone together. I am sure, if it be the sense of the House, I shall cheerfully acquiesce in it. I can have no wish to press the matter myself. I have submitted it to your Lordships, and you will do with it as you think proper. I have stated the motion. I have opened the objects of it shortly. I am indifferent as to the event of it, because I am persuaded that now the House is in possession of it, they will dispose of it as it deserves.

The noble Earl has said, that the clause is so worded, it is difficult to understand it. I did not expect to hear such an apology from that side of the House, because it was in the other House a clause was offered to prevent the monopoly by Mr. Burke, who foretold what is now the consequence. Some of your Lordships objected to the clause here, because it was thought to be obscure; but the answer on the part of administration was, "How is it possible that any thing can be plainer? all kind of merchandizes for the purposes of trade are to be prohibited. Stores and provisions for the use of the army cannot be mistaken; it is absurd to suppose, that the words can import, or be construed to extend to, any thing but stores and provisions." But, my Lords, it is plain that the clause was worded as it stands purely with a view to evade it; at least the event has shewn, that I would not incur the imputation of a willingness to arraign the conduct of administration, if I now contended that it bore every appearance of such an intention. Nevertheless, as I then differed with the noble Earl about the terms in which the clause was worded, I am now equally ready to differ with him on the true construction. The noble Earl says, it was not the quality of the goods exported by the authority of the licences that alarmed administration, but the quantities. Here again I differ from his Lordship; for it is the quality of the goods that particularly calls for your Lordships' animadversion. The noble Earl has said, he never doubted the quality of the goods being within the act of Parliament, but the quantity had caused him to stop the licences. What struck me at first, was the improper quality of the goods, long before the quantity had amounted to any thing alarming. If the quality of the goods was not what constituted the breach of the act of Parliament, the quantity could never have been brought into question; if it was legal to grant the licences, and to export under such licences, I cannot perceive upon what ground of law or equity any persons could take upon themselves to say, "it is true the law allows you to export any kind of goods in any quantities you please, the law is defective. The framers of it only meant to permit the exportation of merchandizes to such an amount, we will therefore supply that defect by limiting the quantities to what the law intended, but has not expressed."

The noble Earl has defended the licences on another ground, which he presumes to come within the literal and

obvious meaning of the clause, that is, so far as administration were concerned. His Lordship says, that provisions mean all eatables, and stores every thing that a soldier or an officer can have occasion for. I differ with him in both his definitions. I contend that there have been many things sent out under the denomination of provisions, for which his Majesty never was, nor ever could be supposed to be a contractor. In this class, I take it the immense quantity of tea may be ranked, as well as several other articles which may be deemed mere luxuries, not at all calculated for the sustenance of an army. Under the denomination of stores, the breach of the act is still more palpable and gross. Are the *millinery, mercery, and haberdashery goods sent out*, to be deemed proper stores for an army? For my part, from all I could ever learn from reading and experience, I never knew nor heard of any species of stores calculated for the use of an army but *military stores*. Military stores express all the *wants* of an army, as *artillery, and ordnance stores*, which are cannon, powder, ball, working-tools, waggons, &c; *provisions*, as meat, drink, corn and hay, rum, or other spirits, &c; *camp necessaries*, as tents, kettles, &c. Their *clothing* is sent by certain persons, and carried by the regiments themselves, all but a trifling quantity for the officers. They are sent from hence by contractors, or are provided by commissaries, and the private men put under stoppages for the repayment; but even allowing that caps, ribbons, gauze, silk, woollen cloths, and blonds, may be construed to be stores within the provision of the clause, will the noble Earl rise and seriously tell me, that the immense quantities of Russia duck, sent out under those licences, were intended for the army; or that the nails, blankets, sheets, &c. which are all supplied in another manner, and through different channels, were provided for the same purpose? I dare say his Lordship will not; he knows better. He needs only consult the commissaries of the army, and if he should still retain any doubts, they will soon satisfy him of the contrary. I am confident there was more duck exported under those licences than would make breeches for an army of Dutchmen ten times more numerous than that stationed at Boston, though every man wore ten pair. On the whole, my Lords, though I think the present motion extremely important, and the proposed enquiry equally necessary, the mode and time entirely depend on your Lordships' judgment. All I have to add is, that I

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think

think the whole transaction bears the strongest appearance of a total perversion of the act, for the purpose of carrying into execution a system of the most iniquitous and corrupt jobbing; and that whenever your Lordships shall think proper to enter into the enquiry, you will find it well worthy your most serious consideration.

Lord Effingham answered to Lord Sandwich's charge of unfairness; that he thought to have obtained credit for great candour with his Lordship, as he had omitted purposely to say any thing of the ship *City of London*, which had sailed, under licence, before these illegal practices had been complained of to government; and had confined himself to such as had been permitted to sail, notwithstanding.

Lord Lyttelton.

The Lord *Lyttelton*. Nothing that I have heard this day has induced me to change the opinion I formed on being present on Thursday night in the other House. Every proof of any consequence now moved for was laid before that House, and fully investigated. Several witnesses were examined, and a variety of arguments raised on the nature of the evidence. But either the witness was trifling in itself, or in any instance where the act was departed from, it evidently appeared that administration were imposed on, and that the jobs, such as they were, were the jobs of a few unconnected individuals, neither connected with each other nor administration. The minister sat out the whole night. He answered every plausible objection that was started. He examined closely such of the persons as seemed to come into the business with alacrity, on purpose to give it a consequence it did not deserve; and on the fullest and most impartial investigation, after sitting on the enquiry till five o'clock in the morning, the House dismissed the matter, as equally nugatory, unnecessary, and ill founded.

The noble Earl has represented the exportation under the licences as immense. I presume the noble Earl's information to be such as he has represented it. I know his Lordship's candour too well to suppose that he would wish to misrepresent or exaggerate; but the fact is totally otherwise; for out of the nine licences that were granted three only sailed, one of which was the hospital-ship, that was allowed to have sailed strictly in conformity to the act, and the cargoes of the other six were relanded. The noble Earl has represented the quantities of goods exported as being very considerable; but I would desire his Lordship to recollect, that

entries

entries outwards are always very inaccurately made; that the entry is generally one-third more than the goods shipped; and the reason is obvious, because when the merchant makes his entry, he always takes a precaution to do it in such a manner as to reserve to himself the power of shipping more goods, should an opportunity serve. On the whole, my Lords, from what has come to my own knowledge of what passed when I was present in the House of Commons; when I reflect on the effect of the enquiry there; when your Lordships must be satisfied that it was only the job of a few interested individuals, and that administration, as soon as they discovered they were imposed on, immediately recalled the licences; when all those circumstances are maturely weighed, and properly considered, I am not only inclined to think, but I am firmly persuaded, that you will be of opinion, the present motion is totally unnecessary, particularly as it may be supposed to convey some degree of undeserved censure.

The Duke of *Manchester*. I hold a place in the customs, ^{Duke of} *Manchester*. which I derive from my ancestors; it is true the office is executed by a deputy, but nevertheless, I am not entirely unmindful that it is my duty to see it faithfully executed. Some time since, one of the persons whom I employ in this service, applied to me to know, in what manner he should act. He said, that licences had been granted for the exportation of goods to America; that he understood there was an act passed some weeks before, for prohibiting all trade and intercourse with that country; that he accordingly procured the act, and on perusing it, was of opinion that the licences were not legal; that as the cockets were to pass through his office, he did not know how to conduct himself. On this information I desired him to apply to the commissioners of the customs, and take their directions. In a few days after he applied again to me, told me he had been with the commissioners of the customs, but they confessed their ignorance of the matter, and told him, they were not sufficiently informed to be able to direct him. I mention this transaction, my Lords, only to point out to you the difficulty the very commissioners themselves lay under, in complying with the licences in question; and, to shew that the conduct of the admiralty board, the difficulties of complying with their requisitions, the doubts that were started, and the several circumstances of superseding the clause for permitting the exportation of stores and provisions, were matters of doubt

doubt and consideration, long before they came to be mentioned, or agitated in either House of Parliament. Your Lordships will excuse me, if I trouble you with a word or two, on something which has fallen in the course of the present debate. I mean what has been urged by the noble Lord who spoke last, to induce you to stop short in the present enquiry, because the matter has been already considered and dismissed in the other House. I think it extremely disorderly to mention any thing which has happened in the other House in a debate in this, particularly, when it is mentioned with an intention of influencing your opinion, or determinations. But, my Lords, I was present at what passed in the other House, as well as the noble Lord; and his Lordship will permit me to say, that the matter was not fully investigated there. Several of the witnesses were out of the way, or kept out of the way. This Mr. Anthony Merry in particular was not to be found. The papers called for were not ready, or were purposely held back; and even after all, imperfect as the information was, the enquiry was not dismissed, after being *fully heard*. The gentlemen who set it on foot, for the reasons now mentioned, were desirous to postpone it for a few days, in order to gain sufficient information to proceed on; but when they moved the question of adjournment, they were out-voted; and at length, just as a witness was called, the minister moved the previous question, or which was the same thing, the dissolution of the committee, by moving that the chairman do now leave the chair; so that your Lordship will see, that the matter was *not* investigated, but *smothered* in the other House; and that if the minister had a mind to have the matter fairly sifted to the bottom, he would have consented to the question of adjournment, and not have suppressed all future enquiry in the first instance. I beg your Lordships' indulgence, I know by correcting disorder, I have myself been disorderly; but I hope your Lordships are satisfied, that nothing could have prevailed on me to depart from the uniform usage of Parliament, but stating faithfully the proceedings of the other House, which your Lordships permitted to be made a ground of debate in this.

Marquis of
Rockingham

The Marquis of *Rockingham*. I should not have troubled your Lordships on the present occasion, if it had not been for something which fell from the noble Lord, [Lord Lyttelton] who mentioned his being present in the other House. He says, the result of the enquiry there was, that it appeared

peared the licences granted were abused; that administration, as soon as ever they were apprised of it, recalled the licences; and that the whole was proved, not to be a job countenanced by administration, but a mere job carried on by a few obscure mean persons, unconnected with, and unknown to administration. Now, my Lords, the single observation I would make on this occasion, is, that the noble Lord confesses it was a job; that it was proved it was a job; yet the person chiefly concerned, Mr. Anthony Merry, you will find was actually both connected with and countenanced by administration; for your Lordships will find it came out in proof, that this same Mr. Merry had a letter of credit to the amount of 3000*l.* from Sir Grey Cooper, the secretary of the treasury.

The question being put, the motion was agreed to.

May 14, 15, 16, 17.

Private business. Adjourned to the 20th.

May 20.

Private business.

May 21.

New Peers take their seats.* Bills passed by commission.

May

* Hon. Hume Campbell, commonly called Lord Polwarth; Hon. James Stuart, commonly called Lord Mountstewart; Right Hon. George Onslow; Sir Edward Hawke, Knight of the Bath; Sir Jeffery Amherst, Knight of the Bath; Sir Brownlow Cust, Bart. George Pitt, Nathaniel Ryder, and Thomas Foley, Esqrs. The form of introduction, swearing, and taking their seats, was as follows: Notice being given by the Gentleman Usher of the Black Rod, that the new-created Peer was waiting to be sworn; the officers of the House went out in the following order: The two Lords in their robes, who were to introduce the new Peer, viz. the Lord Great Chamberlain [Duke of Ancaſter]; the Deputy Earl Marshal of England [Earl of Scarborough]; Garter King at Arms, and Black Rod. They accordingly received the new Lord in the lobby, and he entered the House with a Lord on each side, and the three made three obeisances, till they came up to the bar. They then proceeded into the House at the right side of the bar, preceded by Black Rod, Garter, Earl Marshal, and Lord Great Chamberlain; in when the new-created Lord came up to the table, he stood while the Clerk of the Crown was reading his patent of creation, the two Lords who introduced him likewise standing the whole time. The patent being read, his Lordship then repaired

May 22.

Private business.

May 23.

The King came to the House, and put at end to the session.
[See his speech at the end of the Commons Debates of this Session.]

LIST of the most material ACTS passed in this Session.

ACT for continuing the duties on malt, &c.

----- Land-tax (4s.).

----- to prevent mutiny and desertion.

----- to enable the King to call out the militia, and to summon the Parliament in case of rebellion in Great-Britain.

----- to prohibit all trade and intercourse with the colonies of New Hampshire, Massachusetts Bay, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, the three lower counties on Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, during the continuance of the present rebellion within the said colonies respectively; for repealing an act, made in the 14th year of the reign of his present Majesty, to discontinue the landing and discharging, lading or shipping, of goods, wares, and merchandize, at the town, and within the harbour, of Boston, in the province of Massachusetts Bay; and also two acts, made in the last session of Parliament, for restraining the trade and commerce of the colonies in the said acts respectively mentioned; and to enable his Majesty, or any person or persons appointed and authorized by his

repaired to the seat next the bar on the junior Baron's bench, passing between the woollack and the table; and he and the Lords who introduced him making three obeisances again to the throne, they all returned to the table, where, after saluting the Chancellor, they retired by the same way they came in to unrobe, and again returned into the House and took their seats. The others were introduced in the same manner.

Majesty,

Majesty, to grant pardons, and to issue proclamations, in the cases, and for the purposes, therein mentioned.

- for regulating the marines on shore.
- to give a reward for discovering a north passage, for vessels between the Atlantic and Pacific Oceans.
- making perpetual the importation of provisions, and cattle from Ireland:
- to prevent deer stealing.
- for laying additional duties on carriages, stamps, cards and newspapers.
- for exporting wheat to the West-Indies, and biscuit and pease to Newfoundland.
- for insolvent debtors.
- for granting a bounty upon the importation of flax-seed from Holland into Ireland.
- to change the punishment of offenders from transportation to hard labour.
- to enable the King to raise one million.
- for the encouragement of the whale-fishery.
- for applying a sum out of the sinking fund.
- for allowing the drawback on muslins and calicoes imported by the East India company.

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